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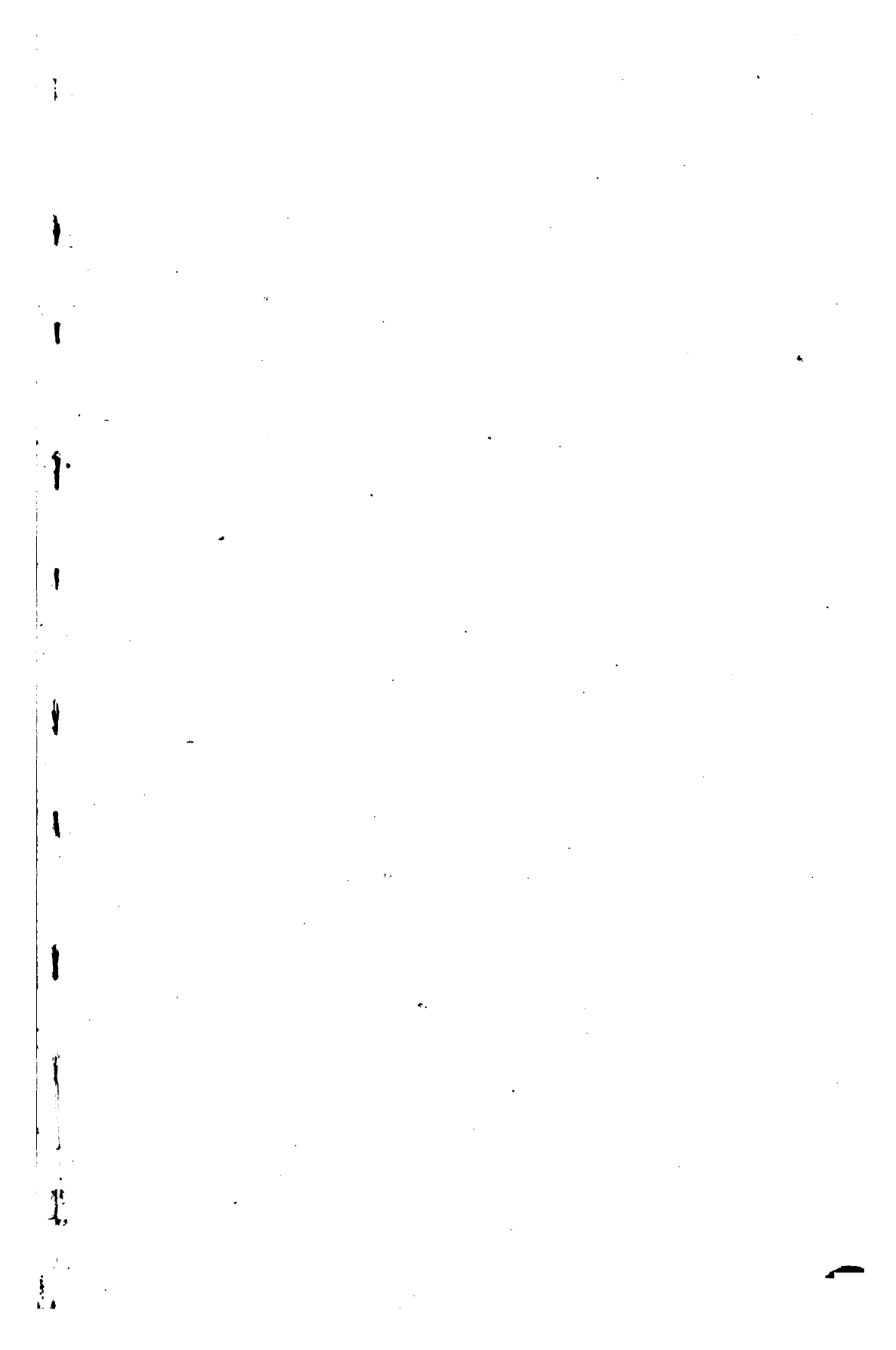
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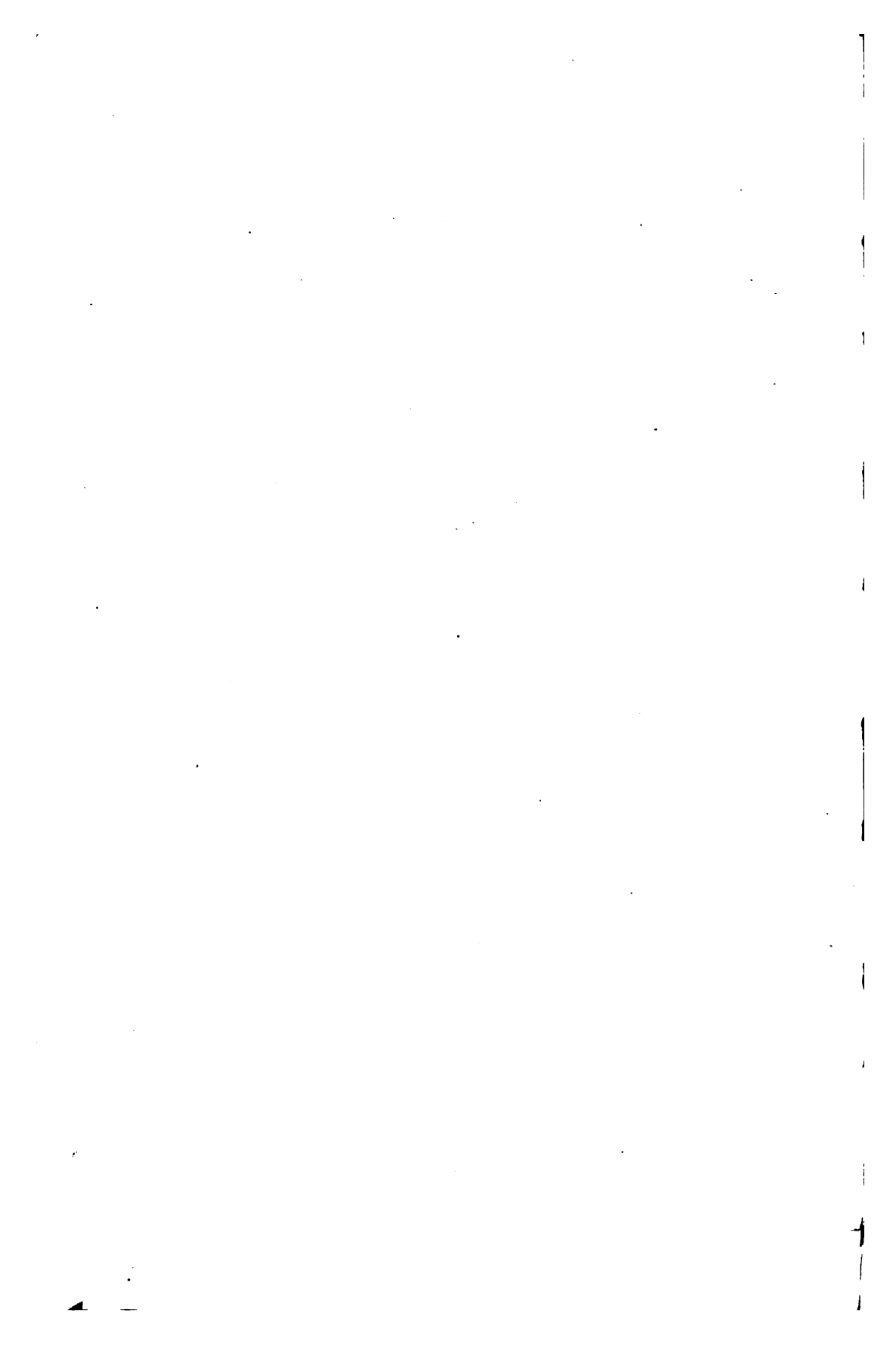
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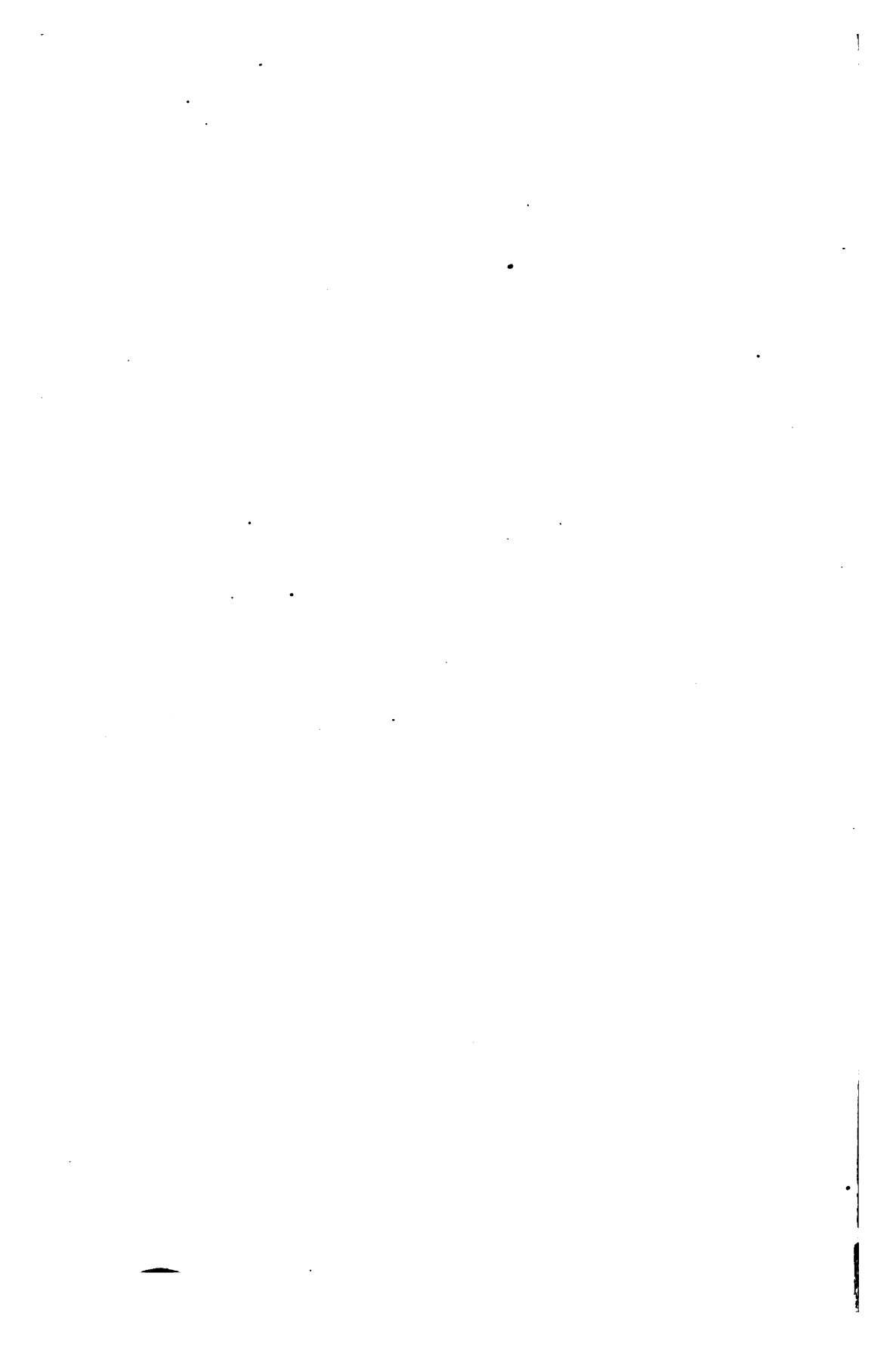


IN
MEMORY OF
HENRY VROOMAN





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U. S. D. 17.9 35.1

INSTRUCTIONS

TO

UNITED STATES MARSHALS, ATTORNEYS, CLERKS, AND COMMISSIONERS.

NOT APPLICABLE TO OFFICIALS IN ALASKA, PORTO RICO,
OR THE PHILIPPINE ISLANDS.

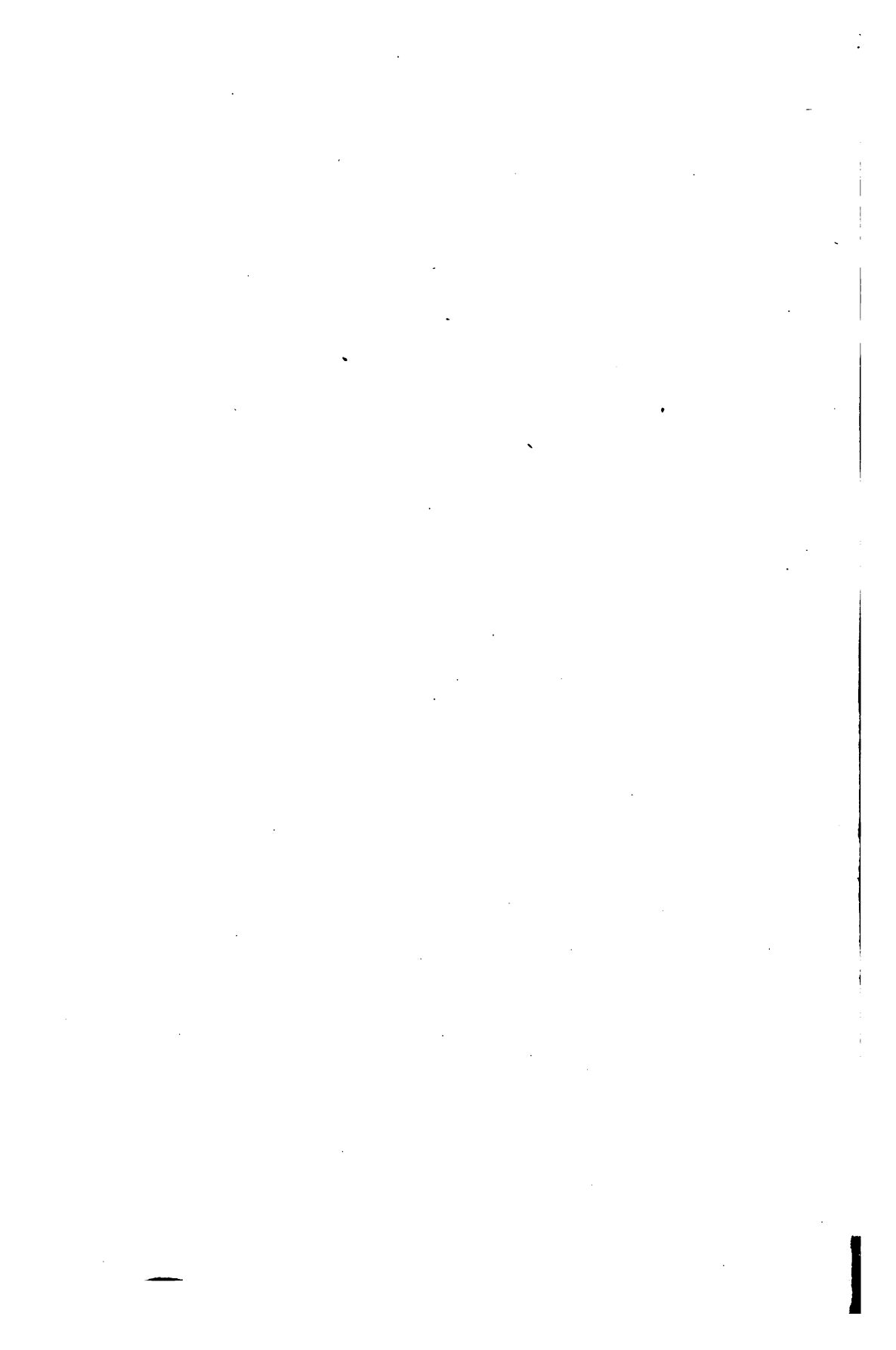
APRIL 1, 1904.

SEC. 362, R. S. The Attorney-General shall exercise general superintendence and direction over the attorneys and marshals of all the districts in the United States and the Territories as to the manner of discharging their respective duties, and the several district attorneys and marshals are required to report to the Attorney-General an account of their official proceedings and of the state and condition of their respective offices in such time and manner as the Attorney-General may direct.

SEC. 368, R. S. The Attorney-General shall exercise general supervisory powers over the accounts of district attorneys, marshals, clerks, and other officers of the courts of the United States.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.

1904.



DEPARTMENT OF JUSTICE,
Washington, D. C., April 1, 1904.

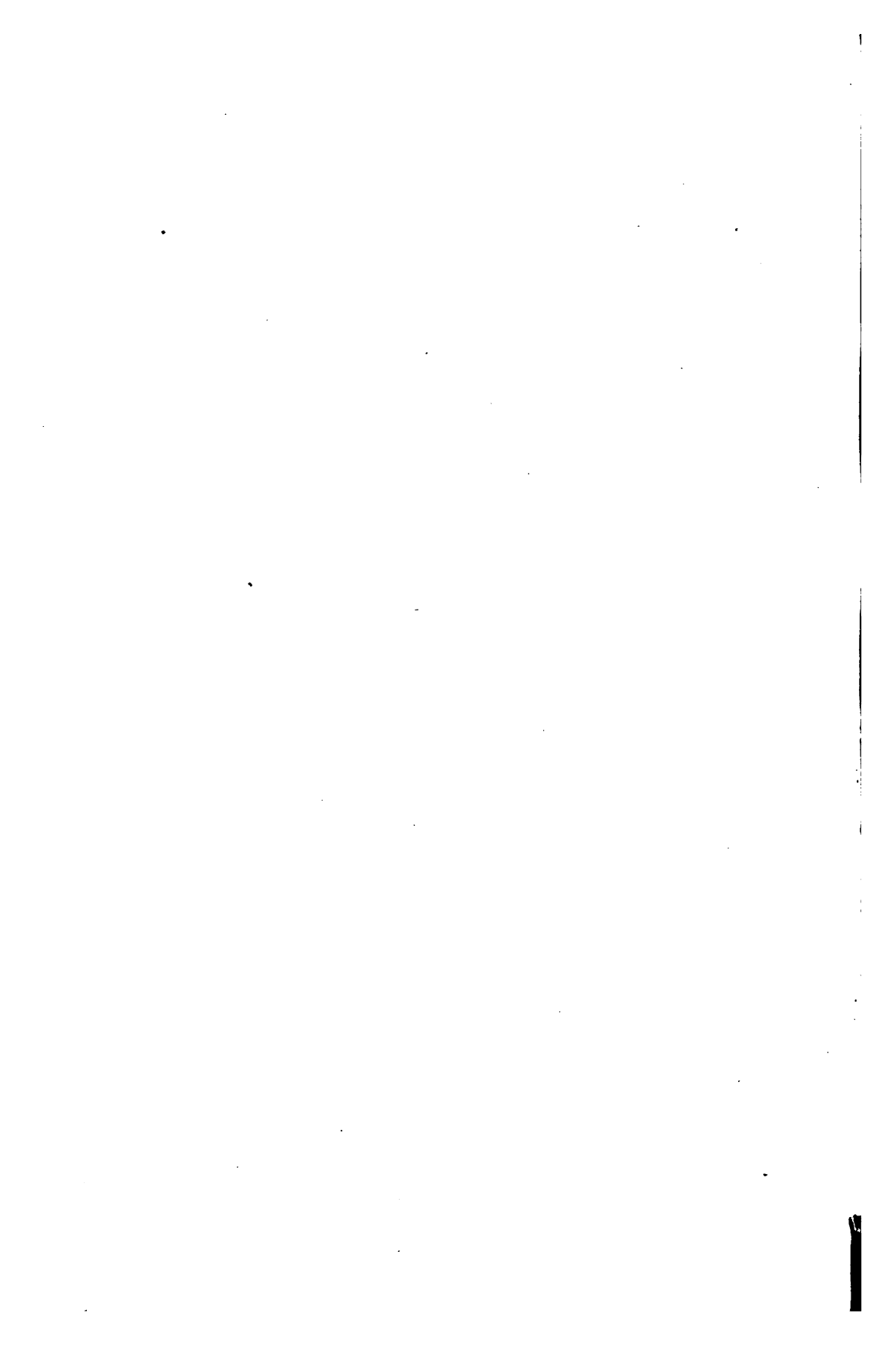
To United States marshals, attorneys, clerks, and commissioners:

In the performance of your duties and the rendering of your accounts you will observe the rules and regulations and will be guided by the instructions set forth herein.

These instructions will take effect April 1, 1904, and supersede Instructions to United States Marshals, Attorneys, Clerks, and Commissioners of January 1, 1899, and July 1, 1895, Instructions to United States Marshals and Attorneys, dated July 1, 1896, and Instructions to United States Commissioners, dated June 1, 1897, but will not supersede or in any way affect the Instructions to United States Marshals, Attorneys, Clerks, and Commissioners for the District of Alaska, effective from and after August 1, 1902.

Respectfully,

P. C. KNOX,
Attorney-General.



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PART ONE.
INSTRUCTIONS TO UNITED STATES MARSHALS.

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MARSHALS.

APPOINTMENTS, BONDS, AND OATHS.

1. Commissions appointing United States marshals are forwarded by the appointment clerk of the Department of Justice to the United States district judge, to be delivered to the appointee when he shall have executed an official bond and taken the prescribed oath of office. The appointee is at once advised by letter of said action, and furnished

with blank forms for the proper execution of said official bond and oath of office, his official residence as fixed by the Attorney-General being designated in said letter.

2. The appointee should proceed with the preparation and execution of his official bond, following strictly and carefully the full printed instructions found upon the blank forms, and he should confer with his predecessor in office and arrange with him as to the date of entrance upon duty under said appointment, *upon which date* the prescribed oath of office should be taken and executed in triplicate.

3. Immediately upon taking the oath and entering upon his duties the marshal must inform the Attorney-General, the Solicitor of the Treasury, and the Commissioner of Internal Revenue thereof by letter.

4. The original bond must be filed in the office of the clerk of the district court or circuit court and recorded. An exact copy of the bond, showing the nature and location of all seals thereon, certified by the clerk under the seal of the court, must be at once forwarded to the Auditor for the State and Other Departments, and the clerk of the court must certify that the original is filed and recorded in his office.

5. The amount or penalty of the official bond of a United States marshal is \$20,000, unless the business of the courts in the district requires a larger bond, in which event he may be directed by the Attorney-General to execute a bond in a greater amount. The said direction must be first obtained before any bond in excess of \$20,000 is executed.

6. An *additional* official bond may be given only when directed by the Attorney-General and only when the sureties upon the proposed additional bond will be precisely the same as those upon the existing bond. In such cases it is not necessary to close accounts and deposit balances.

7. If by reason of the death of a surety or from any other cause it becomes necessary to give a second official bond under one and the same appointment (*not an additional bond, as stated in the foregoing paragraph*), all accounts must be promptly closed and all balances on deposit or in hand under the old bond at once deposited to the credit of the Treasurer of the United States. In such cases accounts in the ledger, United States funds book, cash book, and fee and expense record must be closed, requisition made for an advance under the new bond, and receipts and disbursements under the two bonds carefully maintained absolutely separate and distinct.

8. The oaths of office having been executed in triplicate, one should be filed with the bond, one forwarded to the Auditor for the State and Other Departments, and one sent to the Department of Justice. Until the oath and copy of the bond have been received in the Auditor's office, and the oath in the office of the Attorney-General, no salary can be sent or advance made to defray court expenses.

9. The oath or oaths required to be taken by marshals or deputy marshals before entering upon the duties of their respective offices may be administered by any officer of the United States or any State authorized by law to administer oaths. By the act of May 28, 1896, United States commissioners and all clerks of United States courts are authorized to administer oaths. Like authority is given to deputy clerks of United States courts by the act of March 2, 1901.

10. It is therefore not obligatory that the oaths of office of United States marshals or their deputies be taken before the district judge. Nor is it necessary, when an oath of office is taken before an officer other than the district judge, that it shall be certified that the marshal or deputy marshal taking such oath was at the time more than 20 miles distant from the place where the district judge resides and is.

11.

U. S. MARSHAL'S OATH OF OFFICE.

.....District of.....

I,, do solemnly swear that I will faithfully execute all lawful precepts directed to the marshal of the.....district of....., under the authority of the United States, and true returns make, and in all things well and truly, and without malice or partiality, perform the duties of the office of United States marshal of the.....district of....., during my continuance in said office, and take only my lawful fees; and that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office upon which I am about to enter:
So help me God.

.....
.....

Sworn to and subscribed before me this.....day of....., 19

.....
.....

REAPPOINTMENT.

12. A United States marshal who is reappointed or who receives an appointment after confirmation by the United States Senate following a recess appointment must proceed, in so far as his oath, bond, receipts, and disbursements under the new appointment are concerned, in all respects as though the new appointee were a person other than the old appointee.

13. A bond must be executed under the new appointment, and on the date selected for entrance upon duty under said appointment another oath of office must be taken. The power to disburse moneys under the old appointment and bond terminates on the day preceding the day upon which the oath of office is taken and duties are entered upon under the new appointment.

14. Accounts must be rendered covering the disbursements made up to and including the day preceding the day of qualification and entrance upon duty under the new appointment, the books closed, and all balances turned into the Treasury. New accounts should be opened upon the books, and the records therein continued under the new appointment and bond just as would be done if the new appointee were some person other than the former appointee.

15. Disbursements made up to the day preceding the day of qualification and entrance upon duty under the new appointment should cover as far as practicable all fees earned and expenses incurred up to said date. Items, however, that have been so earned or incurred, which it is impracticable to pay prior to the date of entrance upon duty under the new appointment, must be paid from funds advanced and included in accounts rendered under said new appointment, notwithstanding the fact that the fees or expenses were earned or incurred prior to the date of entrance upon duty under said new appointment.

16. In selecting the date for entrance upon duty under a new appointment, it should be borne in mind that it will be necessary to make a brief break in the continuity of payments. If the new commission is received by the judge and becomes effective prior to and near the close of any given quarter, it is desirable to qualify and enter upon duty thereunder upon the first day of the succeeding quarter, in order to avoid the rendition of accounts for a portion of a quarter, provided that in cases where a marshal holds office under a recess appointment, the commission under which he is acting does not expire before the close of the quarter.

TERM OF OFFICE—VACANCIES.

17. Marshals holding recess appointments will note that they may continue in office under said appointments until the close of the next session of the United States Senate subsequent to said appointment, and no longer.

18. Under the provisions of the act of June 24, 1898 (30 Stat. L., 487), United States marshals who have been commissioned for a term of four years may continue to discharge the duties of their respective offices until their successors have been appointed and have assumed duties.

19. A vacancy arising in the office of marshal by reason of the death of the marshal, may be filled under the provisions of the act of June 24, 1898, by the district court of the district, if the vacancy arises in a State, by the supreme court of the territory if arising in a Territory, or by the supreme court of the District of Columbia, if arising within the District of Columbia.

POWERS.

20. See paragraphs 32, 33, 34, and 36 post.

DUTIES.

21. It is the duty of the United States marshal to attend the several terms of court in person, in so far as may be practicable, to execute or cause to be executed all lawful precepts directed to him and issued under the authority of the United States, to promptly defray judicial expenses, and to perform such other duties as may be required by law or regulation; detailed instructions concerning which will be found elsewhere under appropriate headings.

22. It is the duty of the marshal, whenever practicable, to aid personally in serving the process and orders of the courts.

23. An economical and satisfactory administration of the office of United States marshal depends largely upon the degree of personal attention which the marshal gives to the duties of his office and upon the honesty and efficiency of the deputies employed.

24. The Department expects and must require United States marshals to attend daily and in person at their offices, unless engaged in the service of process or in attendance upon court or elsewhere on official business. The Department also expects and must require United States marshals to exercise personal supervision over and be fully informed as to the transaction of official business, to which they must give proper daily attention.

25. It is expected of the marshal that he will carefully examine or cause to be carefully examined the accounts of each of his deputies and personally make such other investigation from time to time as will enable him to ascertain whether his field deputies are in fact performing personally all the services for which they are claiming credit, whether all travel for which mileage is charged has been actually made, and whether the actual expenses for which credit is claimed have been in fact incurred, as indicated by the receipts furnished. The marshal is responsible for any incompetency, neglect of duty, dishonest practice, or fraudulent practice of his deputies. He should remove at once any deputy who is incompetent, inattentive to his duties, or whom he has reason to believe guilty of any fraud or dishonesty.

RETIRING MARSHAL.

26. When a marshal goes out of office he must turn over to his successor all Government property, such as letters and copies of letters relating to official business, official papers, books, office furniture,

handcuffs, leg irons, etc., and take his receipted inventory thereof. This inventory should be forwarded to the Attorney-General, in order that final action may be taken upon his accounts.

27. The act of March 3, 1899 (30 Stat. L., 1237), provides:

That hereafter all unserved process remaining in the hands of a United States marshal or his deputies, when the marshal ceases to be such, shall be immediately delivered to the succeeding marshal upon request; and when a deputy United States marshal resigns or is removed, he shall, upon request, deliver to the United States marshal for the district all process remaining in his hands.

28. A retiring marshal should, as soon as practicable, procure from each of the clerks of the courts in his district a certificate showing that he has returned all process, except that turned over to his successor upon request, and that he has accounted properly for all money collected by him on executions, or otherwise, and forward the same to the Auditor for the State and Other Departments. Such certificate should be accompanied with a receipt from the succeeding marshal for all process turned over to him in accordance with the above provision of law.

29. All resignations should be explicit in terms. A resignation "to take effect June 30" is not the same in effect as a resignation "to take effect July 1." It should be written "to take effect at the close of June 30," if that is the intention. In the payment of salaries by the disbursing clerk all ambiguous resignations are construed most strongly against the parties writing them.

30. See paragraphs 170 and 171 as to disbursements.

TEXT OF CERTAIN STATUTES RELATIVE TO THE APPOINTMENT, POWERS, AND DUTIES OF UNITED STATES MARSHALS.

31. SEC. 779. Marshals shall be appointed for a term of four years.

32. SEC. 1876. There shall be appointed a marshal for each Territory. He shall execute all process issuing from the Territorial courts when exercising their jurisdiction as circuit and district courts of the United States. He shall have the power and perform the duties, and be subject to the regulations and penalties, imposed by law on the marshals for the several judicial districts of the United States. He shall hold his office for four years and until his successor is appointed and qualified, unless sooner removed by the President.

33. SEC. 787. It shall be the duty of the marshal of each district to attend the district and circuit courts when sitting therein, and to execute, throughout the district, all lawful precepts directed to him, and issued under the authority of the United States, and he shall have power to command all necessary assistance in the execution of his duty.

34. SEC. 788. The marshals and their deputies shall have, in each State, the same powers, in executing the laws of the United States, as the sheriffs and their deputies in such State may have, by law, in executing the laws thereof.

35. SEC. 789. In case of the death of any marshal, his deputy or deputies shall continue in office, unless otherwise specially removed, and shall execute the same in the name of the deceased until another marshal is appointed, as provided in this chapter, and duly qualified. The defaults or misfeasances in office of such deputies in the meantime shall be adjudged a breach of the condition of the bond given by the marshal who appointed them; and the executor or administrator of the deceased marshal shall have like remedy for the defaults and misfeasances in office of such deputies, during such interval, as he would be entitled to if the marshal had continued in life and in the exercise of his said office until his successor was appointed and duly qualified.

36. SEC. 790. Every marshal or his deputy, when removed from office, or when the term for which the marshal is appointed expires, shall have power, notwithstanding, to execute all such precepts as may be in their hands respectively at the time of such removal or expiration of office; and the marshal shall be held responsible for the delivery to his successor of all prisoners who may be in his custody at the time of his removal, or when the term for which he is appointed expires; and for that purpose he may retain such prisoners in his custody until his successor is appointed and duly qualified.

37. SEC. 791. Every marshal shall, within thirty days before the commencement of each term of the circuit and district courts in his district, make returns to the Solicitor of the Treasury of the proceedings had upon all writs of execution, or other process, which have been placed in his hands, for the collection of moneys adjudged and decreed to the United States in said courts, respectively.

38. SEC. 792. Every marshal to whom any execution upon a judgment in any suit for moneys due on account of the Post-Office Department has been directed shall make returns to the Sixth Auditor [now Auditor for the Post-Office Department], at such times as he may direct, of the proceedings which have taken place upon the said process of execution.

39. Act of June 24, 1898 (30 Stat. L., 487):

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the attorneys and marshals of the United States, including the District of Columbia and the Territories, shall continue to discharge the duties of their respective offices, unless sooner removed by the President, until their successors shall be appointed and qualify in their stead. But they shall be appointed and commissioned for the term of four years, as now provided by law.

40. SEC. 2. That in case of a vacancy in either of said offices, the district court of the United States for the district where such vacancy exists, the supreme court of the Territory, and the supreme court of the District of Columbia, may appoint persons to exercise the duties of such offices within their respective jurisdictions until such vacancy shall be filled.

41. Act of June 20, 1874 (18 Stat. L., 109):

SEC. 2. That every clerk of the circuit or district court of the United States, United States marshal, or United States district attorney shall reside permanently in the district where his official duties are to be performed, and shall give his personal attention thereto; and in case any such officer shall remove from his district, or shall fail to give personal attention to the duties of his office except in case of sickness, such office shall be deemed vacant: *Provided*, That in the southern district of New York said officers may reside within twenty miles of their districts.

TEXT OF CERTAIN STATUTES RELATIVE TO THE OFFICIAL BONDS OF UNITED STATES MARSHALS.**42. Section 2 of the act of February 22, 1875 (18 Stat. L., 333):**

That whenever the business of the courts in any judicial district shall make it necessary, in the opinion of the Attorney-General, for the clerk or marshal to furnish greater security than the official bond now required by law, a bond in a sum not to exceed forty thousand dollars shall be given, when required by the Attorney-General, who shall fix the amount thereof.

43. Section 1 of the act of August 13, 1894 (28 Stat. L., 279):

That whenever any recognizance, stipulation, bond, or undertaking conditioned for the faithful performance of any duty, or for doing or refraining from doing anything in such recognizance, stipulation, bond, or undertaking specified, is by the (1) laws of the United States required or permitted to be given with one surety, or with two or more sureties, the execution of the same or the guaranteeing of the performance of the condition thereof shall be sufficient, when executed or guaranteed solely by a corporation incorporated under the laws of the United States, or of any State having power to guarantee the fidelity of persons holding positions of public or private trust, and to execute and guarantee bonds and undertakings in judicial proceedings: *Provided*, That such recognizance, stipulation, bond, or undertaking be approved by the head of department, court, judge, officer, board, or body, executive, legislative, or judicial required to approve or accept the same. But no officer or person having the approval of any bond shall exact that it shall be furnished by a guarantee company or by any particular guarantee company.

44. Act of March 2, 1895 (28 Stat. L., 807):

Hereafter every officer required by law to take and approve official bonds shall cause the same to be examined at least once every two years for the purpose of ascertaining the sufficiency of the sureties thereon; and every officer having power to fix the amount of an official bond shall examine it to ascertain the sufficiency of the amount thereof and approve or fix said amount at least once in two years and as much oftener as he may deem it necessary.

45. Hereafter every officer whose duty it is to take and approve official bonds shall cause all such bonds to be renewed every four years after their dates, but he may require such bonds to be renewed or strengthened oftener if he deem such action necessary. In the discretion of such officer, the requirement of a new bond may be waived for the period of service of a bonded officer after the expiration of a four-year term of service, pending the appointment and qualification of his successor: *Provided*, That the nonperformance of any requirement of this section on the part of any official of the Government shall not be held to affect in any respect the liability of principal or sureties on any bond made or to be made to the United States: *Provided further*, That the liability of the principal and sureties on all official bonds shall continue and cover the period of service ensuing until the appointment and qualification of the successor of the principal: *And provided further*, That nothing in this section shall be construed to repeal or modify section thirty-eight hundred and thirty-six of the Revised Statutes of the United States.

OFFICIAL RESIDENCE.

46. Section 12 of the act of May 28, 1896 (29 Stat. L., 183), provides that the marshal's official residence shall be deemed to be at one of the

places of holding court in the district, and authorizes the Attorney-General to fix and declare the place of such official residence.

47. It is preferable that the official residence of the marshal shall be at the principal place of holding court.

48. When a place has been designated by the Attorney-General as the marshal's official residence, his official headquarters should be established there and official business transacted from that place.

49. Expenses of subsistence of a marshal can be allowed only when incurred at places other than his official residence.

COMPENSATION.

50. Under the act of May 28, 1896, United States marshals receive annual salaries which are fixed by law and paid monthly by the disbursing clerk of the Department of Justice, and are allowed in addition, when absent from official headquarters on official business, actual and necessary expenses for lodging and subsistence, not exceeding \$4 per day, and actual necessary traveling expenses.

51. In this connection attention is invited to section 18 of the act of May 28, 1896 (29 Stat. L., 183):

That any officer whose compensation is fixed by sections six to fifteen, inclusive, of this act, who shall directly or indirectly demand, receive, or accept any fee or compensation for the performance of any official service other than is herein provided, or shall willfully fail or neglect to account for or pay over to the proper officer any fee received or collected by him shall, upon conviction thereof, be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment, at the discretion of the court, not exceeding five years, or by both such fine and imprisonment.

52. The disbursing clerk is required by the Treasury officials to furnish receipts for all disbursements, making it absolutely necessary for his protection that every payment should be represented by a receipt. Proper vouchers will be prepared by the disbursing clerk each month and forwarded to officers and employees entitled to receive fixed salaries through this Department. These vouchers are to be signed in person and returned to the disbursing clerk by the last day of the then current month, in order that there may be no delay in the sending of the monthly salary check and the closing up of the monthly pay rolls.

53. Section 1761, Revised Statutes, provides that—

No money shall be paid from the Treasury, as salary, to any person appointed during the recess of the Senate to fill a vacancy in any existing office if the vacancy existed while the Senate was in session and was by law required to be filled by and with the advice and consent of the Senate, until such appointee has been confirmed by the Senate.

54. Section 1884, Revised Statutes, provides that—

When any officer of a Territory is absent therefrom and from the duties of his office, no salary shall be paid him during the year in which such absence occurs,

unless good cause therefor be shown to the President, who shall officially certify his opinion of such cause to the proper accounting officer of the Treasury, to be filed in his office.

55. Territorial officers must accompany their salary receipts with a certificate in the following form:

I,, of the Territory of, do hereby certify that I have not been absent from said Territory and from the duties of my office during the month of, 190., without leave from the Department of Justice.

.....
..... of the Territory of

56. Instructions concerning expenses and expense accounts of United States marshals will be found in Chapter IV, under "Salaries, fees, and expenses of marshals," page 106.

OFFICE DEPUTIES.

APPOINTMENT.

57. Section 10 of the act of May 28, 1896 (29 Stat. L., 182), provides that "when in the opinion of the Attorney-General the public interest requires it, he may, on the recommendation of the marshal, which recommendation shall state the facts as distinguished from conclusions, showing necessity for the same, allow the marshals to employ necessary office deputies and clerical assistance, upon salaries to be fixed by the Attorney-General from time to time."

58. Marshals may employ only such office deputies and clerical assistance, and at such compensation, as the Attorney-General authorizes.

59. The recommendation of the marshal, in accordance with the above provision of law, must state the "facts as distinguished from conclusions;" i. e., must show literally how the public interest will be subserved by the employment of the office deputy whom he desires to appoint.

60. Each application for the employment of an office deputy must also state:

1. The name and age of the proposed employee.
2. His present residence and occupation.
3. His qualifications for the duties to be performed.
4. The proposed rate of compensation.
5. Where it is proposed to employ him and what duties it is desired that he shall perform.

61. Department Form 31 is a form of appointment or commission of deputy marshals.

62. If a person holding the position of office deputy be appointed chief office deputy, the marshal must at once notify the Department of the date of entering upon the duties of the latter position.

63. Whenever an office deputy resigns, is suspended, or dismissed the marshal must notify the Attorney-General immediately in writing of such resignation, suspension, or removal, giving the date upon which the resignation takes effect, and in case of suspension or dismissal he must state the cause thereof.

64. The marshal is responsible for the acts of his deputies, and should therefore exercise great care in their selection.

OATH OF OFFICE.

65. Before entering upon his official duties an office deputy must take the following oath on Form 10:

.....District of.....
 I,, do solemnly swear that I will faithfully execute all lawful precepts directed to the marshal of the.....district of....., under the authority of the United States, and true returns make, and in all things well and truly, and without malice or partiality, perform the duties of the office of deputy United States marshal of the.....district of....., during my continuance in said office, and take only my lawful fees; and that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office upon which I am about to enter: *So help me God.*

Sworn to and subscribed before me, this.....day of.....

.....,,
 I certify that the above-named....., deputy marshal, entered upon the performance of his official duties the.....day of.....,

.....,
United States Marshal.

66. The oath must be executed in triplicate. The original must be filed with the clerk of the United States district court, the duplicate forwarded to the Attorney-General, and the triplicate to the Auditor for the State and other Departments.

67. The United States marshal should fill out and sign the certificate at the bottom of Form 10, giving the date upon which the deputy entered on the performance of his official duties.

68. An office deputy marshal whose compensation is fixed by the Attorney-General under the authority of section 10 of the act of May 28, 1896, is not required to again take the oath when his compensation is increased. (3 Comp. Dec., 336.)

TERM OF OFFICE.

69. The term of an office deputy of a marshal employed under section 10 of the act of May 28, 1896, expires with that of his principal, except for the purposes named in sections 789 and 790, Revised Statutes. (3 Comp. Dec., 648.)

70. An office deputy of a marshal is not entitled to compensation for service rendered in behalf of the successor of the marshal who appointed him until he has been appointed and qualified as the deputy of the new marshal. (3 Comp. Dec., 648.)

71. An act approved March 3, 1899 (30 Stat. L., 1237) provides:

That hereafter all unserved process remaining in the hands of a United States marshal or his deputies when the marshal ceases to be such shall be immediately delivered to the succeeding marshal upon request; and when a deputy United States marshal resigns or is removed, he shall, upon request, deliver to the United States marshal for the district all process remaining in his hands.

72. When an incoming marshal desires to retain the services of any person who was an office deputy under his predecessor, he should give him a new appointment and require him to take an oath in the manner above prescribed.

73. Whenever a marshal is reappointed and takes a new oath he should reappoint such deputies as he desires to retain and cause each to qualify on the date he assumes duties under his new appointment, or as soon thereafter as practicable, in the same manner as under an original appointment.

74. The status of an office deputy marshal is not changed by an increase in salary.

75. All resignations should be explicit in terms. A resignation "to take effect June 30" is not the same in effect as a resignation "to take effect July 1." It should be written "to take effect at the close of June 30," if that is the intention. In the payment of salaries by the disbursing clerk, all ambiguous resignations are construed most strongly against the parties writing them.

DUTIES.

76. Office deputy marshals, in addition to the work of the office, shall serve the process of the courts and perform such other duties as may be directed by the marshal.

77. Where authority for the employment of an office deputy has been given upon condition that such office deputy, in addition to acting as deputy, shall act also as bailiff, failure to comply with such condition will necessitate a reduction in the salary of the deputy.

78. When a deputy, with the consent of the judge, acts as crier, he shall do so without compensation. In case he should demand and receive pay as crier, his salary will be reduced accordingly.

79. No office deputy marshal shall in any manner assist a field deputy to make fees.

COMPENSATION.

80. Under section 10 of the act of May 28, 1896 (29 Stat. L., 182), office deputies and clerical assistants receive monthly salaries, paid by the disbursing clerk of the Department of Justice, who will forward vouchers for such salaries. (See paragraph 52.)

81. The marshal is directed to give such vouchers his personal attention. He shall scrutinize the same carefully, and if they are correct in time of service, in names and amounts, shall indorse his approval thereon, cause them to be signed by such deputies, and returned promptly to the disbursing clerk by the last day of the then current month.

82. If the term of office of any such office deputy has expired, or he has been suspended or dismissed from the service, or if, for any other reason, he is not entitled to be paid the amount entered in said voucher, the marshal shall return the voucher to the disbursing clerk, without approval, together with a statement of the facts, giving the date upon which such deputy's connection with the service terminated and such other data as may be desirable.

83. No salary voucher of an office deputy shall be approved for any time when he was not actually employed, except during the leave of absence allowable as stated in paragraphs 961 to 964 inclusive.

84. The provisions of section 18 of the act of May 28, 1896 (29 Stat. L., 183), are applicable to office deputies.

85. Section 10 of the act of May 28, 1896, provides that when an office deputy "is engaged in the service or attempted service of any writ, process, subpoena, or other order of the court, or when necessarily absent from the place of his regular employment on official business, he shall be allowed his actual traveling expenses only, and his necessary and actual expenses for lodging and subsistence, not to exceed two dollars per day, and the necessary actual expenses in transporting prisoners, including necessary guard hire; * * *."

86. For details as to expenses and expense accounts of office deputies see page 106.

FIELD DEPUTIES.**APPOINTMENT.**

87. Section 11 of the act of May 28, 1896 (29 Stat. L., 182), provides that "when, in the opinion of the marshal of any district, the public interest will thereby be promoted, he may appoint one or more deputy marshals for such district, who shall be known as field deputies, and who, unless sooner removed by the district court as now provided by law, shall hold office during the pleasure of the marshal, except as hereinafter provided. * * *

88. "The marshal, immediately after making any appointment or appointments under this section, shall report the same to the Attorney-General, stating the facts as distinguished from conclusions constituting the reason for such appointment, and the Attorney-General may at any time cancel any such appointment as the public interest may require."

89. Marshals should exercise great care in the selection and employment of field deputies.

90. Field deputies must be located at various places throughout the district, with a view to economy and efficiency in the conduct of the public business. Usually, they should have their headquarters near the center of the territory to be covered by them in the service of process.

91. Immediately upon the appointment of a field deputy the marshal must make a report to the Attorney-General, stating the facts constituting the reason for such appointment.

92. Such report must also state:

1. The name and age of the proposed employee.
2. His residence and occupation at the time of appointment.
3. Where it is proposed to fix the place of his official headquarters.
4. The territory which will be covered by him in the service of process.

93. *Appointments of field deputy marshals other than as the public interest may require will be canceled.*

94. Whenever a field deputy resigns, is suspended or dismissed, or whenever a change of his official headquarters is made, the marshal must notify the Department immediately, giving the date of such resignation, suspension, dismissal, or change of official headquarters, and in case of suspension or removal the cause thereof must be stated.

95. When a field deputy is removed or dismissed because of official misconduct, he must not again be employed in any capacity wherein his compensation is to be paid by the United States, unless specific authority has first been obtained from the Attorney-General.

OATH OF OFFICE.

96. Before entering upon his official duties a field deputy must take the following oath of office on Form 10:

.....District of.....

I,, do solemnly swear that I will faithfully execute all lawful precepts directed to the marshal of the.....district of....., under the authority of the United States, and true returns make, and in all things well and truly, and without malice or partiality, perform the duties of the office of deputy United States marshal of the.....district of....., during my continuance in said office, and take only my lawful fees; and that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear

true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office upon which I am about to enter: *So help me God.*

Sworn to and subscribed before me, this.....day of.....

I certify that the above-named....., deputy marshal, entered upon the performance of his official duties the.....day of.....,

.....
United States Marshal.

97. The oath must be executed in duplicate. The original should be filed with the clerk of the United States district court, and the duplicate sent to the Attorney-General.

98. The United States marshal should fill out and sign the certificate at the bottom of Form 10, giving the date upon which the deputy entered upon the performance of his official duties.

TERM OF OFFICE.

99. The term of a field deputy marshal appointed under section 11 of the act of May 28, 1896, expires with that of his principal, except for the purposes named in sections 789 and 790, Revised Statutes.

100. When an incoming marshal desires to retain the services of any person who was a field deputy under his predecessor, he should give him a new appointment and require him to take an oath in the manner above prescribed.

101. And whenever a marshal is reappointed and takes a new oath, he should, if he desires to retain the services of his deputies, and in order that they may be entitled to compensation, reappoint such deputies and cause them to qualify on the date he assumes duties under his new appointment, or as soon thereafter as practicable, in the same manner as under an original appointment.

102. Under section 790, Revised Statutes, a marshal is authorized to pay the deputies of his predecessor for services of precepts which have actually been delivered to them, or to the marshal before the latter went out of office, whether such precepts as were then in the marshal's possession were in fact turned over to the deputies before the marshal went out of office or not. (Comp. letter to Millikan, W. N. Car., Aug. 31, 1897.)

103. An act approved March 3, 1899 (30 Stat. L., 1237), provides:

That hereafter all unserved process remaining in the hands of a United States marshal or his deputies, when the marshal ceases to be such, shall be immediately delivered to the succeeding marshal upon request; and when a deputy United States marshal resigns or is removed he shall, upon request, deliver to the United States marshal for the district, all process remaining in his hands.

COMPENSATION.

104. Section 11 of the act of May 28, 1896 (29 Stat. L., 182), provides that each field deputy shall receive as his compensation—

* * * three-fourths of the gross fees, including mileage, as provided by law, earned by him, not to exceed one thousand five hundred dollars per fiscal year, or at that rate for any part of a fiscal year;

105. and in addition shall be allowed his actual necessary expenses, not exceeding two dollars a day, while endeavoring to arrest, under process, a person charged with or convicted of crime;

106. *Provided*, That a field deputy may elect to receive actual expenses on any trip in lieu of mileage.

107. *Provided*, That in special cases, where in his judgment justice requires, the Attorney-General may make an additional allowance, not, however, in any case to make the aggregate annual compensation of any field deputy in excess of twenty-five hundred dollars, nor more than three-fourths of the gross fees earned by such field deputy.

108. For details as to the compensation and accounts of field deputies, see page 80.

CHAPTER II.

JUDICIARY AND OTHER FUNDS.

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REQUISITIONS AND ADVANCES.

109. For the maintenance of the United States courts Congress annually appropriates money under the following heads: Salaries, fees and expenses of marshals; Fees of jurors; Fees of witnesses; Support of prisoners; Pay of bailiffs, etc., and Miscellaneous expenses, United States courts.

110. Advances from each of these appropriations, and in certain cases from other appropriations, are made through the Attorney-General to marshals upon their requisitions.

111. Regular quarterly requisitions for funds should be prepared upon the printed blanks furnished for this purpose, and forwarded in time to reach the Department *about twenty days prior to the close of each quarter*, in order that there may be ample time for the transmission of a warrant by mail and in the ordinary course of business.

112. Requisitions should also be prepared and forwarded immediately upon assuming official duties, and also at any time when it becomes apparent that by reason of unforeseen contingencies or miscalculation in estimating quarterly expenses the funds on hand will be insufficient to promptly defray the expenses of the then current quarter.

113. It is the marshal's duty to advise the Department in every instance, whenever it becomes apparent that more money will be needed for current expenses, by telegram, if necessary.

114. In cases where the condition of the appropriations or other considerations render it impracticable to advance at once the entire amount requested for any given quarter, action will be taken upon the requisition from time to time, and such amounts advanced thereon

as circumstances may warrant until the full amount actually needed shall have been received by the marshal.

115. Whenever it is estimated that the prospective expenses under any appropriation for a given quarter will greatly exceed those for the corresponding quarter of the previous fiscal year, the regular quarterly requisition *must be accompanied by a statement* explaining the conditions giving rise to the anticipated increase.

116. Judiciary funds for any given fiscal year may be advanced until September 30 of the following fiscal year.

117. Claims against the Government on account of fees earned or expenses incurred during any given fiscal year, remaining unpaid after September 30 of the following fiscal year, should be rendered as directed in paragraphs 953 to 957.

RECEIPTS AND DEPOSITS.

118. Every disbursing officer of the United States who deposits any public money intrusted to him in any place or in any manner, except as authorized by law, becomes liable to fine or imprisonment, or both, in accordance with the provisions of section 5488, Revised Statutes.

119. Hereafter funds advanced for disbursement will be placed to the credit of United States marshals with the assistant United States treasurers and other depositaries, and the warrants will be sent direct to said depositaries instead of to the marshals.

120. If a change of depositary is desirable, the marshal must communicate with the Department, stating fully why it is deemed expedient to make the change in question.

121. Amounts disallowed in the accounts of United States marshals, unexpended balances under the several judiciary appropriations for a past fiscal year which will not be needed for disbursement, all amounts standing to the official credit of the marshal when his term of office expires or when he assumes duties under a new appointment, and all amounts standing to the official credit of the marshal under bond of a given date after a new bond with different sureties has been executed must be deposited to the credit of the Treasurer of the United States, with personal credit to the United States marshal. If, however, an item is repaid which has not been disallowed, it should be deposited without personal credit.

122. When the moneys to be deposited as mentioned in the next preceding paragraph stand to the official credit of the United States marshal in a United States depository, or with the Treasurer or an assistant treasurer of the United States (as it is assumed they will in all cases), the marshal should draw an official check and make the same *payable to the bank itself* (giving its corporate name), or to the Treasurer or assistant treasurer of the United States (if the money is in the Treasury

or a subtreasury), "*for deposit to the credit of the Treasurer of the United States.*" The words in quotation should appear on the check in all such cases, whether drawn on the United States Treasurer, an assistant treasurer, or on a national-bank depository.

123. When deposits are made to the credit of the Treasurer of the United States, certificates of deposit will be issued by the depository or the Treasurer, or the assistant treasurer, as the case may be, in duplicate. The original certificate of deposit will be forwarded by the depository, or Treasurer, or assistant treasurer, to the Secretary of the Treasury, or to such other official as may be designated by the instructions of the Treasury Department, and the duplicate retained by the marshal.

124. A certificate of deposit should invariably show on what account or accounts the deposit is made. If it represents a repayment of unexpended balances or disallowances the depository should be given a list of the appropriations, with the fiscal year, and the amount belonging to each, in order that such information may appear on the certificate. In case of a disallowance, the fact that it covers a disallowance should be stated.

125. A marshal collecting fees fixed by law for services rendered by himself or deputies is required by section 6 of the act of May 28, 1896, to pay the same to the clerk of the court to be by him covered into the Treasury, and may not use any part thereof for any purpose. (3 Comp. Dec., 601.)

126. Section 6, above mentioned (29 Stat. L., 179), is as follows:

That on and after the first day of July, eighteen hundred and ninety-six, all fees and emoluments authorized by law to be paid to United States district attorneys and United States marshals shall be charged as heretofore, and shall be collected, as far as possible, and paid to the clerk of the court having jurisdiction, and by him covered into the Treasury of the United States; and said officers shall be paid for their official services, which, in the case of district attorneys, shall include services in the circuit courts of appeals of their respective circuits wherever sitting, salaries and compensation hereinafter provided and not otherwise: *Provided*, That this section shall not be construed to require or authorize fees to be charged against or collected from the United States, except as provided by sections eleven and thirteen of this act relating to field deputies and their payments.

127. When the proceeds of sale of Government property are deposited, the certificate should show the kind of property sold. Judicial officers will, therefore, give the depository the necessary information, so that the certificate may contain a memorandum such as "proceeds sale of old furniture," "old stove," "old typewriter."

128. The information furnished by such memoranda is required by law to be included in the Book of Estimates sent to Congress.

129. The expenses of sale payable from the gross proceeds are such as pertain directly to the sale in question, such as auctioneer's fees, cartage to place of sale, cost of inspection if an inspector be hired for that purpose, etc.

130. Act of June 8, 1896 (29 Stat. L., 268):

That from the proceeds of sales of old materials, condemned stores, supplies, or other public property of any kind, before being deposited into the Treasury, either as miscellaneous receipts on account of "proceeds of Government property," or to the credit of the appropriations to which such proceeds are by law authorized to be made, there may be paid the expenses of such sales, as approved by the accounting officers of the Treasury, so as to require only the net proceeds of such sales to be deposited into the Treasury, either as miscellaneous receipts or to the credit of such appropriations, as the case may be.

131. The act of June 8, 1896, authorizing the payment of expenses, "as approved by the accounting officers of the Treasury," incurred in the sale of old material, etc., from the gross proceeds thereof and the payment into the Treasury of the net proceeds only, does not require that such expenses shall be so approved before payment, but simply that an itemized account thereof shall be rendered to the accounting officers for settlement as any other item of expenditure of Government funds. (3 Comp. Dec., 149.)

132. The course authorized by the act of June 8, 1896, in the payment of expenses of sales of old materials from the proceeds thereof and the deposit into the Treasury of the net proceeds only, should be adopted in all cases, although there may be an appropriation available for the payment of expenses incurred in such sales. (3 Comp. Dec., 190.)

TREASURY CIRCULARS CONCERNING DISPOSITION OF CERTIFICATES OF DEPOSIT AND THE DEPOSIT OF PUBLIC MONEYS.

[1896.—Department Circular No. 89.—Division of Public Moneys.]

PROPER DISPOSITION OF CERTIFICATES OF DEPOSIT.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., June 11, 1896.

133. Section 3621, Revised Statutes of the United States, as amended by section 5 of the legislative, executive, and judicial appropriation act, approved May 28, 1896, requires that the Treasurer and assistant treasurers of the United States and all national bank depositaries shall transmit forthwith to the Secretary of the Treasury the original of every certificate of deposit issued by them and deliver to the depositor the remainder of the set.

134. Accordingly the instructions on this subject contained in Department Circular No. 18, dated February 2, 1894, are hereby revoked and the following regulations are hereby prescribed, to take effect July 1, 1896.

135. The *originals* of all certificates issued for the deposit of any and all public moneys of every character and description, *except as stated in the next succeeding paragraph*, must be forwarded immediately upon their issuance to the Secretary of the Treasury *by the depositaries*, who, before transmitting them, should see that their amounts correspond with the amounts actually deposited with them.

EXCEPTIONS.

136. Those issued by an assistant treasurer for the shipment of silver coin, *in duplicate*, the original to be transmitted by the assistant treasurer to the office from which the coin is to be shipped, and the duplicate to the depositor; those issued by a national bank depositary for shipment of silver coin, *in duplicate*, the original to be transmitted by the depositary to the Treasurer of the United States and the duplicate to the depositor; those issued for 5 per cent redemption fund and for the transfer of

funds from one depositary to another, *in duplicate*, the original to be transmitted by the depositary to the Treasurer of the United States and the duplicate to the depositor; and those issued for the deposit of moneys pertaining to the Post-Office Department, *in duplicate*, the original to be transmitted by the depositary to the Auditor for the Post-Office Department and the duplicate to the depositor.

137. Certificates of deposit should be issued and disposed of as hereinafter provided, and in no case should a second or duplicate set of certificate be issued for any deposit, except upon special authority from the Secretary of the Treasury, viz:

ON ACCOUNT OF CUSTOMS, ETC.

138. Those issued in the name of customs officers at ports where naval officers are located, on account of duties on imports, etc., including repayments of disbursing funds, *in triplicate*; those issued in the name of customs officers at other ports, *in duplicate*; the originals of the former class to be transmitted by the depositary to the Secretary of the Treasury, the duplicates to the naval officers, and the triplicates to the depositors; and of the latter class, the originals to the Secretary of the Treasury and the duplicates to the depositors.

INTERNAL REVENUE.

139. Those issued in the name of collectors of internal revenue on account of internal-revenue collections, internal-revenue stamps, or repayments of disbursing funds, *in triplicate*; the original to be transmitted by the depositary to the Secretary of the Treasury and the remainder of the set to the depositor, who should forward the duplicate to the Commissioner of Internal Revenue and retain the triplicate.

SALES OF PUBLIC LANDS, ETC.

140. Those issued in the name of receivers of public moneys on account of sales of public lands, etc., including repayments of disbursing funds, *in triplicate*; the original to be transmitted by the depositary to the Secretary of the Treasury and the remainder of the set to the depositor, who should forward the duplicate to the Commissioner of the General Land Office and retain the triplicate.

JUDICIARY.

141. Those issued in the name of judicial officers, district attorneys, marshals, clerks of court, etc., *in duplicate*; the original to be transmitted by the depositary to the Secretary of the Treasury and the duplicate to the depositor.

ARMY AND NAVY.

142. Those issued in the name of military or naval officers, on account of repayments, sales of public property, or otherwise, *in duplicate*; the original to be transmitted by the depositary to the Secretary of the Treasury and the duplicate to the depositor.

SURVEYS OF PUBLIC LANDS.

143. Those issued on account of surveys of public lands, *in triplicate*; the original to be transmitted by the depositary to the Secretary of the Treasury and the remainder of the set to the depositor, who should forward the duplicate to the Surveyor-General and retain the triplicate.

PATENT FEES.

144. Those issued on account of patent fees, *in triplicate*; the original to be transmitted by the depositary to the Secretary of the Treasury and the remainder of the set to the depositor, who should forward the duplicate to the Commissioner of Patents and retain the triplicate.

SEMIANNUAL DUTY.

145. Those issued on account of semiannual duty, *in triplicate*; the original to be transmitted by the depositary to the Secretary of the Treasury and the remainder of the set to the depositor, who should forward the duplicate to the Treasurer of the United States and retain the triplicate.

MISSING COUPONS.

146. Those issued on account of coupons missing from bonds forwarded for redemption, or otherwise, *in duplicate*; both the original and duplicate to be transmitted by the depositary to the Secretary of the Treasury.

LOANS, INTEREST ON THE PUBLIC DEBT, CIVIL REPAYMENTS, CONSULAR FEES, MISCELLANEOUS AND OTHER RECEIPTS.

147. Those issued on account of subscriptions to any loan, repayments of interest on the public debt, civil repayments, except as hereinbefore otherwise provided for, consular fees, miscellaneous and other receipts, *in duplicate*; the original to be transmitted by the depositary to the Secretary of the Treasury and the duplicate to the depositor.

SECRETARY'S SPECIAL ACCOUNTS.

148. Those issued for deposits to the credit of the Secretary of the Treasury, special accounts Nos. 1 and 5, *in triplicate*; the originals to be transmitted by the depositary to the Secretary of the Treasury and the remainder of the set to the depositor; those issued to the credit of the Secretary of the Treasury, special account No. 3, *in duplicate*, the original to be transmitted by the depositary to the Secretary of the Treasury and the duplicate to the depositor.

149. The depositor should forward the duplicate pertaining to account No. 1 to the Commissioner of Internal Revenue and retain the triplicate; he should forward the duplicate pertaining to account No. 5 to the Solicitor of the Treasury and retain the triplicate; he should retain the duplicate pertaining to account No. 3.

DISBURSING OFFICERS' RECEIPTS.

150. For each deposit made to the official credit of a disbursing officer a single receipt should be issued and delivered to the depositor.

GENERAL REMARKS.

151. In no case are certificates of deposit required to be filed with accounts rendered by Government officers to the accounting officers of the Treasury Department, nor does such a disposition of any certificates of deposit secure to the officers transmitting them proper credits in their accounts. Credit for deposits is given officers in the settlement of their accounts only upon warrants issued by the Secretary of the Treasury, based upon the report of the depositary and verified by the original certificate of deposit. In taking credit in their accounts current, however, for money deposited, officers should state specifically the date of deposit, with whom deposited, and the source from which the money was derived. All original certificates issued for deposits by military, naval, and other officers, the amounts of which are required to be recorded in any of the bureaus of the War, Navy, Interior, or other Executive Departments, will, immediately upon their receipt by the Secretary of the Treasury, be compared with the proper depositary account, recorded, and forwarded to the head of the Department to which the deposits pertain for designation of the proper appropriations, etc.

CHARLES S. HAMLIN, *Acting Secretary.*

[1896.—Department Circular No. 90.—Division of Public Moneys.]

REGULATIONS FOR THE DEPOSIT OF PUBLIC MONEYS.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., June 12, 1896.

To collectors and surveyors of customs, collectors of internal revenue, receivers of public moneys, marshals, clerks of courts, and all other officers or agents of the United States engaged in collecting, depositing, or transmitting public moneys.

152. The following regulations, based upon specific provisions of existing laws, for the violation of which penalties of a severe character are provided, are hereby prescribed, and a strict compliance therewith enjoined:

COLLECTIONS.

153. Collectors and surveyors of customs, collectors of internal revenue, and receivers of public moneys, living in the same city or town with the Treasurer or an assistant treasurer of the United States, or a national-bank depository, must deposit their receipts at the close of each day. Officers at such a distance from a depository that daily deposits are impracticable must forward their receipts as often as they amount to \$1,000, and at the end of each month without regard to the amount then accumulated.

154. All collections must be deposited to the credit of the Treasurer of the United States, except moneys received by collectors of internal revenue from sales under section 3460, Revised Statutes of the United States, or from offers of compromise *when received prior to the acceptance of the offer*, which must be deposited to the credit of the Secretary of the Treasury.

155. District attorneys, *marshals*, and clerks of courts, who receive public moneys accruing to the United States from fines, penalties, and forfeitures, fees, costs (including costs in civil and criminal suits for violation of the postal laws), forfeitures of recognizances, debts due the United States, interest on such debts, sales of public property, or from any other sources, except as stated below, will deposit the same in accordance with the foregoing paragraphs. Moneys accruing from customs (including navigation) should be paid to the collector or surveyor of customs of the district in which the case arose, a receipt accepted therefor to be sent to the Solicitor of the Treasury. Moneys accruing from internal-revenue cases should be paid to the collector of internal revenue of the district in which the case arose, a receipt accepted therefor to be sent to the Commissioner of Internal Revenue. Moneys accruing from *civil* post office suits, and *fines* in criminal cases for violation of the postal laws should be deposited to the credit of the Treasurer of the United States for the use of the Post-Office Department.

156. The Department encourages the practice of a deputy collector depositing directly with a depository in the name of his principal, believing that greater economy and dispatch will thereby be attained. In such cases the deputy will see that certificates are issued in the name of the collector for whom he is acting, to whom he should forward the portion of the set received by him from the depository.

DISBURSING FUNDS.

157. Disbursing officers or agents must deposit disbursing funds to their official credit and draw upon such funds in their official capacity only. Unless otherwise directed, they must deposit such moneys with the Treasurer or an assistant treasurer of the United States, or a national-bank depository if specially authorized by the Secretary of the Treasury for that purpose under the provisions of section 3620, Revised Statutes of the United States. In case no such special authority has been given to a

convenient depository, application should be made to the Secretary of the Treasury for such authorization.

158. Reference is hereby made to Department's circulars of March 12, 1889, relative to the transportation of public moneys by express; August 24, 1876, relative to disbursing funds; November 28, 1879, and June 2, 1882, relative to offers of compromise, and June 11, 1896, concerning the issuance and disposition of certificates of deposit; also, to act of Congress of January 22, 1894, sections 3216, 3218, 3617, 3620, 3621 (as amended by act of May 28, 1896), 3625, and 5481 to 5505, inclusive, of the Revised Statutes of the United States.

159. This circular supersedes circular regulations for the deposit of public moneys dated January 12, 1888.

CHARLES S. HAMLIN, *Acting Secretary.*

DISBURSEMENTS—CHECKS.

160. When opening his first account, before issuing any checks, the marshal will furnish the depository on whom checks are to be drawn with his official signature duly verified by some officer whose signature is known to the depository.

161. Unless the marshal has specific authority to hold money at his own risk and pay otherwise, all disbursements of judiciary funds must be made by checks drawn upon the depository or Treasurer or assistant treasurer of the United States, as the case may be, in favor of the payees named in the marshal's accounts, *and mailed or handed directly to said payees by the marshal or one of his deputies.*

162. The mere drawing of an official check without its delivery to the payee does not constitute a payment in lawful money for which a marshal may claim credit in his accounts. In order to entitle the marshal to claim credit for a payment, the check covering said payment must not only have been drawn, but must have been delivered by mailing or otherwise to the payee without the imposition of any restriction concerning its collection.

163. Attention is directed to the provision of section 3620, Revised Statutes, that a disbursing officer may withdraw moneys from a depository upon his official check "only as it may be required for payments to be made by him in pursuance of law (and draw for the same only in favor of the persons to whom payment is made) * * *." It is, therefore, unlawful for a marshal to withdraw public funds from a depository upon his official check issued in favor of himself or any person other than the party rendering the services or furnishing the supplies as shown by his account.

164. There must be a brief statement on the face or back of each check, clearly indicating the object or purpose for which it was drawn, as, for example, "Jurors, Mch. qr., 1903."

165. No allowance will be made for expenses charged for collecting money on checks.

166. A marshal will not ask for the return of checks drawn by him in

his official capacity. If the depositary should return such checks, the marshal is directed to transmit them again to the depositary, with the request that he be furnished with a statement of his deposit account in lieu thereof.

167. No marshal shall issue any certificate, scrip, or other form of evidence of indebtedness whereby to charge the United States, nor recognize nor pay the same, but shall only make payments upon presentation of the proper pay rolls or other duly authenticated vouchers, which shall be taken up and made part of his official accounts.

168. The act of Congress approved February 25, 1897 (29 Stat. L., 595), provides:

That it shall hereafter be unlawful for any United States marshal or deputy marshal, or any clerk or deputy clerk of any court of the United States or of any Territory thereof, or any United States attorney or assistant attorney, or any United States judge, or United States commissioner, or other person holding any office, employment, or position of trust or profit under the Government of the United States to purchase, at less than the full face value thereof, either directly or indirectly, any claim for fee, mileage or expenses of any witness, juror, deputy marshal, or of any other officer of court whatsoever against the United States Government.

169. SEC. 2. That any person who shall violate this act shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not exceeding one thousand dollars.

170. From and after the date when a marshal goes out of office and thus ceases to be a disbursing officer, his power to disburse funds in his hands or standing to his official credit ceases to exist, and all balances must be promptly deposited to the credit of the Treasurer of the United States.

171. If a marshal is recommissioned, and thus is his own successor in office, disbursements from funds received under his old appointment and bond must cease on the day next preceding the day on which he assumes duties under his new appointment. (See paragraphs 12 to 16, inclusive.)

172. Whenever it appears that an official check issued by the marshal has been lost, stolen, or destroyed, he will, upon application to the Department, be furnished with blank forms of bonds of indemnity, to be furnished by the party or parties in interest, said forms containing full detailed instructions concerning the issuance of duplicate checks.

173. The provision of law applicable to lost, stolen, or destroyed checks is as follows:

Whenever any original check is lost, stolen, or destroyed, disbursing officers and agents of the United States are authorized, after the expiration of six months, and within three years from the date of such check, to issue a duplicate check; and the Treasurer, assistant treasurers, and designated depositaries of the United States are directed to pay such duplicate checks upon notice and proof of the loss of the original checks, under such regulations in regard to their issue and payment, and upon the execution of such bonds, with sureties, to indemnify the United States, as the Secretary of the Treasury shall prescribe.

174. This section shall not apply to any check exceeding in amount the sum of twenty-five hundred dollars. (Act of Feb. 16, 1885, 23 Stat. L., 306.)

175. United States marshals have, in rare instances, been permitted to hold a limited amount of the public moneys advanced to them at their own risk, in order that they might, where payment by check upon the United States Treasurer or assistant treasurer or a national-bank depository was, for any reason, impossible or impracticable, pay public creditors otherwise. Cases where the facts will warrant granting a request of a marshal to hold public moneys at his own risk are of rare occurrence. This Department will not approve such a request, except in very exceptional cases.

176. All money advanced by the United States is for the payment of its creditors, and whoever uses public funds for private purposes, even temporarily, is guilty of embezzlement. (See secs. 3620 and 5488, Rev. Stat.) The object of permitting marshals to hold money otherwise than in a public depository is to facilitate the payment of public creditors where it is impracticable to make all payments by depository checks, and the authority to keep on hand a certain amount of money does not convey the right to use that money in any other way than for the payment of the legitimate expenses of the Government.

TREASURY CIRCULAR RELATIVE TO PAYMENT OF TREASURY DRAFTS AND OFFICIAL CHECKS OF PUBLIC DISBURSING OFFICERS.

[1903—Department Circular No. 49—Division of Public Moneys.]

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., April 16, 1903.

177. The following sections of the Revised Statutes of the United States and the subsequent regulations are published for the information and guidance of all concerned:

178. "SEC. 306. At the termination of each fiscal year all amounts of moneys that are represented by certificates, drafts, or checks, issued by the Treasurer, or by any disbursing officer of any Department of the Government, upon the Treasurer or any assistant treasurer, or designated depository of the United States, or upon any national bank designated as a depository of the United States, and which shall be represented on the books of either of such offices as standing to the credit of any disbursing officer, and which were issued to facilitate the payment of warrants, or for any other purpose in liquidation of a debt due from the United States, and which have for three years or more remained outstanding, unsatisfied, and unpaid, shall be deposited by the Treasurer, to be covered into the Treasury by warrant, and to be carried to the credit of the parties in whose favor such certificates, drafts, or checks were respectively issued, or to the persons who are entitled to receive pay therefor, and into an appropriation account to be denominated 'outstanding liabilities.'

179. "SEC. 308. The payee or the bona fide holder of any draft or check, the amount of which has been deposited and covered into the Treasury pursuant to the preceding sections, shall, on presenting the same to the proper officer of the Treasury, be entitled to have it paid by the settlement of an account and the issuing of a warrant in his favor, according to the practice in other cases of authorized and liquidated claims against the United States.

180. "SEC. 309. The amounts, except such as are provided for in section three hundred and six, of the accounts of every kind of disbursing officer, which shall have remained unchanged, or which shall not have been increased by any new deposit thereto, nor decreased by drafts drawn thereon, for the space of three years, shall in like manner be covered into the Treasury, to the proper appropriation to which they belong; and the amounts thereof shall, on the certificate of the Treasurer that such amount has been deposited in the Treasury, be credited by the proper accounting officer of the Department of the Treasury on the books of the Department, to the officer in whose name it had stood on the books of any agency of the Treasury, if it appears that he is entitled to such credit.

181. "SEC. 310. The Treasurer, each assistant treasurer, and each designated depository of the United States, and the cashier of each of the national banks designated as such depositories, shall, at the close of business on every thirtieth day of June, report to the Secretary of the Treasury the condition of every account standing, as in the preceding section specified, on the books of their respective offices, stating the name of each depositor, with his official designation, the total amount remaining on deposit to his credit, and the dates, respectively, of the last credit and the last debit made to each account. And each disbursing officer shall make a like return of all checks issued by him, and which may then have been outstanding and unpaid for three years and more, stating fully in such report the name of the payee, for what purpose each check was given, the office on which drawn, the number of the voucher received therefor, the date, number, and amount for which it was drawn, and, when known, the residence of the payee."

REGULATIONS.

182. 1. Any Treasury draft, or any check drawn by a public disbursing officer still in service, which shall be presented for payment within three full fiscal years from its date, will be paid in the usual manner by the office or bank on which it is drawn, from funds to the credit of the drawer. Thus, any such draft or check issued on or after July 1, 1900, will be paid as stated above until June 30, 1904, and the same rule will apply for subsequent years.

183. Any such draft or check which has been issued for a longer period than three full fiscal years will be paid only by the settlement of an account in this Department, as provided in section 308, Revised Statutes, above published; and for this purpose the draft or check will be transmitted to the Secretary of the Treasury for the necessary action, or, if lost, proof of ownership and loss, and a bond of indemnity must be furnished.

184. 2. At the close of business on every 30th day of June, the Treasurer, the several assistant treasurers, and national-bank depositories will render to the Secretary of the Treasury, as required by section 310, also above published, a list of all disbursing officers' accounts still unclosed which have remained three fiscal years or more unchanged on the books of their respective offices or banks, either by debit or credit, giving in each case the name and official designation of the officer, the date when the account was opened, the date of last debit and last credit, and the balance remaining to his credit.

185. 3. Every disbursing officer will, upon receipt of the statement of his disbursing account for the month of June of each year, from the office or bank in which his funds are kept, immediately make a return to the Secretary of the Treasury of all checks drawn by him which have been outstanding and unpaid for three full fiscal years on the 30th of June of that year, as also required by section 310, stating the number of each check, its date, amount; in whose favor, on what office or bank, and for what purpose drawn; the number of the voucher in payment of which it was drawn, and, if known, the residence of the payee.

186. 4. Whenever any disbursing officer of the United States shall cease to act in that capacity, he will at once inform the Secretary of the Treasury whether he has any public funds to his credit in any office or bank, and, if so, what checks, if any, he has drawn against the same which are still outstanding and unpaid. Until satisfactory information of this character shall have been furnished, the whole amount of such moneys will be held to meet the payment of his checks properly payable therefrom.

187. 5. In case of death, resignation, or removal of a public disbursing officer, any check previously drawn by him and not presented for payment within four months from its date will not be paid until its correctness shall have been attested by the Secretary or Assistant Secretary of the Treasury.

188. 6. If the object or purpose for which any check of a public disbursing officer is drawn is not stated thereon, as required by departmental regulations, or if any reason exists for suspecting fraud, the office or bank on which such check is drawn will refuse its payment.

189. These regulations are intended to supersede those of July 6, 1895, on this subject.

LESLIE M. SHAW, *Secretary*.

WEEKLY REPORTS OF RECEIPTS AND DISBURSEMENTS.

190. Forms have been adopted for reports of receipts and disbursements in detail to be made by marshals to the Attorney-General at the close of each week.

191. Reports must be prepared and forwarded promptly at the close of each week whether or not funds are in hand or disbursements made.

192. Detailed instructions concerning the preparation of these reports will be found printed upon each form, and they should be closely observed.

193. *Marshals are directed to give special attention to the preparation of their reports, in order that they may be accurate and complete in every particular.*

CHAPTER III.

RECORD AND ACCOUNT BOOKS.

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GENERAL INSTRUCTIONS.

194. Record and account books for marshals' offices will be furnished upon application to the Department of Justice.

195. The titles of the books furnished by the Department are as follows: United States Funds, Cash Book, Criminal Docket, Civil Docket, Ledger, Register of United States Prisoners in County Jails.

196. When any of the books mentioned are needed the marshal will make requisition therefor.

197. It is essential that these record and account books in the various districts be kept in a *uniform* manner. The Department will insist that this duty of the marshal be performed properly and that the keeping of the books shall not be allowed to fall in arrears. Instructions to the examiners of this Department are that they shall give particular attention to this matter.

198. In order that misunderstanding may be avoided as to the proper method of keeping such books, and to the end that uniformity, which is absolutely essential, may be obtained, the following sample pages from each book, with fictitious examples, showing how entries should be made, have been prepared:

UNITED STATES FUNDS BOOK.

UNITED STATES FUNDS.

JOHN DOE, U. S. Marshal.

RECEIVED.

Fiscal year 1897.

[First example.]

Remarks.	Total.	Miscellaneous expenses.	Pay of bailiffs, etc.	Support of prisoners.	Fees of witnesses.	Fees of jurors.	Salaries, fees, and expenses of marshals.	Date.	Check No.
Req. dated June 15, 1896. Letter of advice dated July 1, 1896.	\$5,300.00	\$300.00	\$500.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,500.00	1896. July 6	1952
	.....	.....	.....	.....	.....	.....	.....	" 6	1
	.....	.....	.....	.....	.....	.....	.....	" 6	2
	.....	.....	.....	.....	.....	.....	.....	" 6	3
	.....	.....	.....	.....	.....	.....	.....	" 6	4
	.....	.....	.....	.....	.....	.....	.....	" 6	Cash.
	.....	.....	.....	.....	.....	.....	.....	" 6	"
	.....	.....	.....	.....	.....	.....	.....	" 6	"
	.....	.....	.....	.....	.....	.....	.....	" 7	6
	.....	.....	.....	.....	.....	.....	.....	" 7	7
	.....	.....	.....	.....	.....	.....	.....	" 7	8
	.....	.....	.....	.....	.....	.....	.....	" 10	Cash.
	5,300.00	300.00	500.00	1,000.00	1,000.00	1,000.00	1,500.00		
	5,044.15	260.00	488.00	1,000.00	856.15	940.00	1,500.00	" 13	

[Second example.]

Req. dated Sept. 25, 1896. Letter of advice dated Sept. 30, 1896.	\$3,472.10	\$100.00	\$150.00	\$470.00	\$752.10	\$800.00	\$1,200.00	1896. Sept. 28	.....
	.....	.....	.....	.....	.....	.....	.....	" 28	210
	25.00	25.00	.....	.....	.....	.....	.....	" 29	211
	.....	.....	.....	.....	.....	.....	.....	" 30	.....
	.....	.....	.....	.....	.....	.....	.....	" 30	212
	3,600.00	300.00	300.00	500.00	1,000.00	500.00	1,000.00	Oct. 1	213
	.....	.....	.....	.....	.....	.....	.....	" 2	3450
	.....	.....	.....	.....	.....	.....	.....	" 2	214
	.....	.....	.....	.....	.....	.....	.....	" 3	Cash.
	.....	.....	.....	.....	.....	.....	.....	" 3	"
	.....	.....	.....	.....	.....	.....	.....	" 3	"
	.....	.....	.....	.....	.....	.....	.....	" 3	"
	7,097.10	425.00	450.00	970.00	1,752.10	1,300.00	2,200.00		
	6,379.25	277.00	450.00	720.00	1,752.10	1,213.10	1,967.05	" 5	

UNITED STATES FUNDS BOOK.

UNITED STATES FUNDS.

Under bond of July 1, 1896.

DISBURSED.

[First example.]

[illegible]

[Second example.]

Balance:										
F. D. Holmes & Co	Sept. 30				\$250.00			\$250.00		
Mark Samson	" "						\$75	75.00		
Advanced by marshal . . .										
J. H. Franklin Co	Sept. 30						48	48.00		
Peter Jones	" "	\$232.96						232.96		
Jud. warrant										
 John Doe, marshal							25	25.00		
 Harold Green	Dec. 31		\$6.40					6.40		
Wm. Beckner	" "		6.40					6.40		
John Spalding	Sept. 30		38.60					38.60		
James Lynch			35.50					35.50		
Balance		1,967.05	1,213.10	\$1,752.10	720.00	\$450	277	6,379.25		
		2,200.00	1,300.00	1,752.10	970.00	450	425	7,097.10		
Balance										

Amount advanced on Sept. 30, 1896.

UNITED STATES FUNDS.

JOHN DOE, U. S. Marshal.

RECEIVED.

Fiscal year 1897.

[Third example.]

Remarks.	Total.	Miscellaneous expenses.	Pay of bailiffs, etc.	Support of prisoners.	Fees of witnesses.	Fees of jurors.	Salaries, fees, and expenses of marshals.	Date.	Check No.
	\$1,554.79		\$212.00	\$200.10	\$507.70	\$48.95	\$586.04	1897. July 19	
								" 21	400
	1,554.79		212.00	200.10	507.70	48.95	586.04		
	12.60			12.60				1897. Nov. 1	
								" 1	401
	12.60			12.60					
	27.00						27.00	1898. Jan. 1	
	1.85						1.85	" 1	
	28.85						28.85		
	28.85						28.85	1898. Feb. 14	
	30.00						30.00	" 18	
	35.96						35.96	" 18	
								" 21	402
	94.81						94.81		

UNITED STATES FUNDS.

Under bond July 1, 1896.

DISBURSED.

[Third example.]

Name.	Expense in- curred dur- ing quarter ending—	Salaries, fees, and expenses of marshals.	Fees of jurors.	Fees of wit- nesses.	Support of prisoners.	Pay of bailiffs, etc.	Miscellaneous expenses.	Total.	Remarks.
Balance: Covered into Treasury, certificate of deposit No. 720.	-----	\$586.04	\$48.95	\$507.70	\$200.10	\$212	.....	\$1,554.79	
		586.04	48.95	507.70	200.10	212	.....	1,554.79	
*Amount deducted by Auditor from mar- shal's account.									
Covered into Treasury, certificate of deposit No. 900.	-----				12.60	.....		12.60	
					12.60	.....		12.60	
† Repaid by Jno. Doe, U. S. marshal. Repaid as above on ac- count of disallowances in office expense ac- count.									
Balance.....	-----	28.85	.....	.....	.....	.....		28.85	
		28.85	.....	.....	.....	.....		28.85	
Balance: Repaid by Deputy Smith.									
Repaid by Deputy Jones as above. Covered into Treasury, certificate of deposit No. —.	-----	94.81	.....	.....	.....	.....		94.81	
		94.81	.....	.....	.....	.....		94.81	

On ac-
count
of dis-
allow-
ances
from
his ac-
counts.

* This amount either collected from party to whom it was erroneously paid, or, if that is impracticable, paid by the marshal from his private funds.

† This amount repaid to the marshal by John Doe (who is the marshal) from his private funds, being amount disallowed by Auditor from his expense account.

UNITED STATES MARSHALS

UNITED STATES MARSHALS

The following entries show, among other matters, at
the United States Marshal's office, under the appropriation "Miscellaneous"
and the entry of his reimbursements
of this character be fully
and for that reason are some-
times entered under the marshal's entries which the mar-
shal should be stated at the beginning of each fiscal year
in the fore part of the book and disbursements belonging to prior
years should also be left at the close of a fiscal year for
CASH BOOK

CASH BOOK

[illegible]

202 The "Received" column of the Cash Book must show all monies received by the marshal in his official capacity, excepting advances on United States funds which are entered in the United States Funds Book. The "Paid out" column must show the disposition of all such monies.

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199. The preceding sample entries show, among other matters, an instance where a marshal has advanced funds from his private moneys in order to make a payment under the appropriation "Miscellaneous expenses, United States courts," and the entry of his reimbursement therefor. It is essential that all transactions of this character be fully entered in the books.

200. The entries are self-explanatory, and for that reason are somewhat more in full in some cases than the marshal's entries need be.

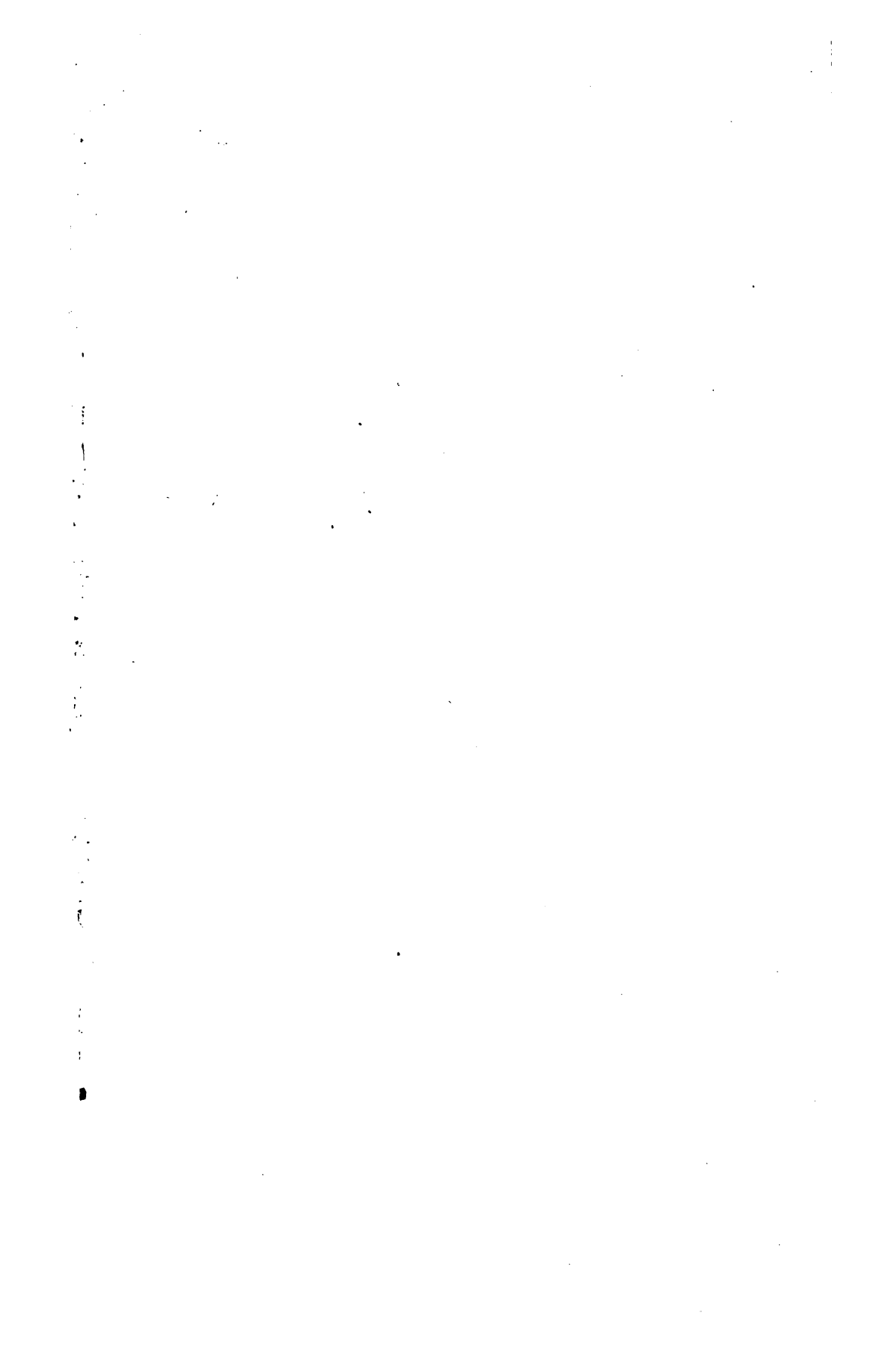
201. The name of the marshal and the fiscal year should be entered at the head of each page, and the date of the bond under which the marshal is then acting should be stated at the beginning of each fiscal year and whenever a new bond is given.

202. Sufficient space should be allowed in the fore part of the book for entries on account of receipts and disbursements belonging to prior fiscal years. Space should also be left at the close of a fiscal year for further entries on account of such year.

CASH BOOK.

Docket and No.	No. of check or warrant.	Date.	Items.	Amount Received.	Amount Paid out.
Civil, No. 61..		1896. Aug. 25	Arnold, Alex., et al. vs. Schnr. Sally Ann. Deposit to cover costs	\$25.00	.....
" " 61..		" 29	Arnold, Alex., et al. vs. Schnr. Sally Ann. Deposit to cover costs	50.00	.....
" " 62..		Sept. 16	S. M. Smith vs. Gordon & King, pl'tff. Deposit to cover costs	5.00	.....
" " 62..		" 17	S. M. Smith vs. Gordon & King, pl'tff. Deposit to cover costs	10.00	.....
" " 62..		" 18	S. M. Smith vs. Gordon & King, def't. De- posit to cover costs	30.00	.....
" " 63..		" 23	Wn. Gaslight Co. vs. En. Electric Co. Fees and costs	6.40	.....
" " 63..	B-1	" 23	Wn. Gaslight Co. vs. En. Electric Co. To J. F. Davis, Clk. C. Ct.		\$6.40
" " 62..	B-2	" 25	S. M. Smith vs. Gordon & King. Ret'd to plaintiff		5.00
" " 62..	B-3	" 25	S. M. Smith vs. Gordon & King. Ret'd to defendant		7.05
" " 62..	B-4	" 26	S. M. Smith vs. Gordon & King. To A. M. Avery, Clk. D. Ct.		32.95
" " 61..		" 28	Arnold, Alex., et al. vs. Schnr. Sally Ann. Deposit to cover costs	50.00	.....
" " 61..		" 29	Arnold, Alex., et al. vs. Schnr. Sally Ann. Proceeds of sale of vessel	196.00	.....
" " 61..	B-5	" 29	Arnold, Alex., et al. vs. Schnr. Sally Ann. Ret'd to Proct. for Lib		18.72
" " 61..	B-6	" 29	Arnold, Alex., et al. vs. Schnr. Sally Ann. Pd. Clk. D. Ct., ½ fees and costs		106.28
" " 61..	B-7	" 30	Arnold, Alex., et al. vs. Schnr. Sally Ann. Pd. Clk. D. Ct. for Reg. of Ct.		196.00
				372.40	372.40

203. The "Received" column of the Cash Book must show all moneys received by the marshal in his official capacity, excepting advances of United States funds, which are entered in the United States Funds Book. The "Paid out" column must show the disposition of all such amounts.





204. When a bond is given to cover costs, no entry need be made until the money is collected. Then the amount collected to cover the costs should be entered in like manner as when no bond is given.

205. In view of section 6 of the act of May 28, 1896, fees and costs must be paid promptly to the clerk of the court.

206. When deposits are made with the marshal to cover costs, the money should be kept entirely separate from that under the regular judiciary appropriations.

DOCKETS.

207. All writs delivered to the marshal *for service* must be entered in the marshal's dockets before they are served by the marshal or handed to the deputies for service.

208. In cases where writs are handed directly to deputies by clerks of courts or United States commissioners, for immediate service, by reason of the fact that the delay which would be caused by sending the writs to the United States marshal's office would permit the defendant to escape, the entry upon the marshal's dockets must be made immediately upon receipt of notice of the issuance of the writs.

209. Fees and expenses in connection with the service of writs must be itemized in the dockets in all cases.

210. *All fees and expenses incurred in suits between individuals and corporations must be recorded in the civil docket.*

211. In the column of the civil docket headed "Receipt of payee" the payees must either sign the docket or their receipts must be taken, numbered, and kept in numerical order. In such cases the names of the payees and the numbers of their receipts must be written on the docket in the column above mentioned.

LEDGER.

212. From the numerous examples given it will be seen that nearly every form of ledger entry which a marshal is likely to have occasion to make is covered.

213. In each case space must be allowed for entries on account of prior fiscal years.

214. These accounts should be arranged in each marshal's ledger in the order indicated by the following examples, and the name of the marshal should be entered at the head of each page.

215. Proper headings have been printed in the ledgers and these must not be changed without authority from the Department.

216. The total amount of the suspensions under each appropriation and from the account of the marshal and each deputy, should be charged immediately upon the receipt of the certificate of the Auditor. If suspended items are allowed, after explanations, as a whole or in part, the allowance should be credited when notice of such allowance is received.

217. Repayments of disallowed items should be credited when the cash is received by the marshal. When cash is thus received it should be deposited in the depository to the credit of the marshal and entered in the United States Funds Book in the same manner as funds advanced upon requisition. Such repayments are not to be disbursed, but must be deposited by the marshal to the credit of the Treasurer of the United States, in the same manner as balances of United States funds are deposited when a new bond is given or after the close of a fiscal year.

218. The Fee and Expense Records heretofore used are to be dispensed with and the fees and expenses in each case are to be posted directly from the Dockets to the Ledger in the manner indicated by the following illustrations:

JOHN DOE, U. S. Marshal.
FISCAL YEAR 1897.

[illegible]

UNITED STATES FUNDS BOOK.

UNITED STATES FUNDS.

JOHN DOE, U. S. Marshal.

RECEIVED.

Fiscal year 1897.

[First example.]

Remarks.	Total.	Miscellaneous expenses.	Pay of bailiffs, etc.	Support of prisoners.	Fees of witnesses.	Fees of jurors.	Salaries, fees, and expenses of marshals.	Date.	Check No.
Req. dated June 15, 1896. Letter of advice dated July 1, 1896.	\$5,300.00	\$300.00	\$500.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,500.00	1896. July 6	1952
								" 6	1
								" 6	2
								" 6	3
								" 6	4
								" 6	Cash.
								" 6	"
								" 7	6
								" 7	7
								" 7	8
								" 10	Cash.
	5,300.00	300.00	500.00	1,000.00	1,000.00	1,000.00	1,500.00		
	5,044.15	260.00	488.00	1,000.00	856.15	940.00	1,500.00	" 13	

[Second example.]

	\$3,472.10	\$100.00	\$150.00	\$470.00	\$752.10	\$800.00	\$1,200.00	1896. Sept. 28	
								" 28	210
	25.00	25.00						" 29	211
								" 30	
								" 30	212
Req. dated Sept. 25, 1896. Letter of advice dated Sept. 30, 1896.	3,600.00	300.00	300.00	500.00	1,000.00	500.00	1,000.00	Oct. 1	213
								" 2	3450
								" 2	214
								" 3	Cash.
								" 3	"
								" 3	"
								" 8	"
	7,097.10	425.00	450.00	970.00	1,752.10	1,300.00	2,200.00		
	6,879.25	277.00	450.00	720.00	1,752.10	1,213.10	1,967.05	" 5	

UNITED STATES FUNDS BOOK.

UNITED STATES FUNDS.

Under bond of July 1, 1896.

DISBURSED.

[First example.]

[illegible]

[Second example.]

Balance:									
F. D. Holmes & Co	Sept. 30				\$250.00			\$250.00	
Mark Samson	"						\$75	75.00	
Advanced by marshal									
J. H. Franklin Co	Sept. 30						48	48.00	
Peter Jones		\$232.95						232.96	
Jud. warrant									
John Doe, marshal							25	25.00	
Harold Green	Dec. 31		\$6.40					6.40	
Wm. Beckner	"		6.40					6.40	
John Spalding	Sept. 30		38.60					38.60	
James Lynch			35.50					35.50	
Balance		1,967.05	1,213.10	\$1,752.10	720.00	\$450	277	6,379.25	
		2,200.00	1,300.00	1,752.10	970.00	450	425	7,097.10	
Balance									

Amount advanced on Sept. 30, 1896.

1897. Dec. 30	Disallowed by Auditor, certificate No. 1462. Earnings in excess of maximum and disallowances.....	1897. July 20	Earnings in excess of maximum.....	.....	146.10
			75.00			
			71.10			
			146.10			146.10

JOHN DOE, *Marshal.*]

DR.

OFFICE EXPENSE ACCOUNT.

FISCAL YEAR 1897.

CR.

Date.	Items.	Reference to—		Amount.	Date.	Items.	Reference to—		Amount.
		Book.	No.				Book.	No.	
1896. Oct. 8	City post-office, check No. 233.....	U. S. F.	52	\$1.50	1896, Oct. 10	Acct. Sept. qr., 1896.....			\$17.00
" 8	Western Union Tel. Co., chk. No. 234.....	" "	52	7.50	1897, Jan. 15	" Dec. " 1896.....			20.10
" 10	Northwestern Telephone Co., chk. No. 235.....	" "	52	8.00	" Apr. 16	" Mch. " 1897.....			21.00
Jan. 10	City post-office, chk. No. 525.....	" "	63	1.50	" June "	" June " 1897.....			18.25
" 10	Wm. U. Telegraph Co., chk. No. 526.....	" "	63	10.60					
" 11	Northwestern Tel. Co., " " 527.....	" "	63	8.00					
Apr. 15	City P. O., check No. 750.....	" "	71	1.50					
" 15	W. U. Tel. Co., check No. 751.....	" "	71	11.50					
" 15	Northwestern Tel. Co., chk. No. 752.....	" "	71	8.00					
July 17	City P. O., check No. 930.....	" "	79	1.50					
" 17	W. U. Tel. Co., chk. No. 931.....	" "	79	8.75					
" 17	Northwestern Tel. Co., chk. No. 932.....	" "	79	8.00					
				76.35					76.35
1897 Dec. 15	Suspended by Auditor, certificate No. 1462. (Disallowed Dec. 30, 1897.).....			1.85	1898, Jan. 1.	Repaid to U. S. marshal by John Doe from his private funds.	U. S. F.	61	1.85
				1.85					1.85

JOHN DOE, *Marshal.*]

DR.

SALARIES, FEES, AND EXPENSES.

FISCAL YEAR 1897.^a

Cr.

Date.	Items.	Reference to—		Amount.	Date.	Items.	Reference to—		Amount.
		Book.	No.					No.	
1896. July 6 Oct. 2 Dec. 20	Judiciary warrant No. 1952. " " " 8450. " " " 5170.	U. S. F....	51 51 59	\$1,500.00 1,000.00 2,000.00	1896. Oct. 10 1897. Jan. 15 Apr. 16 July 20 " 21	Acct. Sept. qr., 1896. " Dec. " 1896. " Mch. " 1897. " June " 1897. Covered into Treas., ctf. of deposit No. 720.	Acct. cur....	1 2 3 4 61	\$1,800.05 2,304.90 1,719.51 2,099.50 586.04 8,000.00
1897. Dec. 15	Suspensions in amounts claimed and paid by marshal, as per his accounts current. (Disallowed Dec. 30, 1897, \$104.81.)			8,000.00	Dec. 80	Allowed by Auditor on explanation.			85.00
				188.81	1898. Feb. 21	" Comptroller on appeal. Covered into Treas., ctf. of deposit No. 900.	U. S. F. Book..	61	10.00 94.81 189.81

^a Prior fiscal years: f. y. 1895 and 1896 on p. 200; 1893 and 1894 on p. 199, etc.JOHN DOE, *Marshal.*]

DR.

FEES OF JURORS.

FISCAL YEAR 1897.

Cr.

Date.	Items.	Reference to—		Amount.	Date.	Items.	Reference to—		Amount.
		Book.	No.					No.	
1896. July 6 Oct. 2 Dec. 20	Judiciary warrant No. 1952. " " " 8450. " " " 5170.	U. S. F....	51 51 59	\$1,000.00 500.00 500.00	1896. Oct. 10 1897. Jan. 15	Acct. Sept. qr., 1896. " Dec. " 1896. Sup'l acct. Sept. qr., 1896	Acct. cur....	1 2 3 4 5 61	\$600.00 1,090.20 50.00 900.25 1,010.60 48.96
1897. Mch. 30 June 20	" " " 7010. " " " 9107.	" "	68 73	700.00 1,000.00	Apr. 16 July 20 " 21	Acct. Mch. qr., 1897. " June " 1897. Covered into Treas., ctf. of deposit No. 720.	U. S. F. Book..		3,700.00

JOHN DOE, *Marshal.*]

FEES OF WITNESSES.

Dr.

FISCAL YEAR 1897.

Cr.

Date.	Items.	Reference to— Book.	No.	Amount.	Date.	Items.	Reference to— No.	Amount.
1896. July 6	Judiciary warrant No. 1932	U. S. F.	51	\$1,000.00	1896. Oct. 10	Acct. Sept. qr., 1896	Acct. cur.	\$1,950.60
Oct. 2	" " " 3450	" "	51	1,000.00	1897. Jan. 15	" Dec. " 1896	" "	3,720.00
Dec. 20	" " " 5170	" "	59	4,000.00	" Apr. 16	" Mar. " 1897	" "	2,971.40
1897. Feb. 20	" " " 6425	" "	67	1,000.00	" July 20	" June " 1897	" "	3,156.30
Mar. 30	" " " 7010	" "	68	1,800.00	" "	Covered into Treas., ctf. of deposit No. 720	U. S. F. Book..	507.70
June 20	" " " 9107	" "	75	3,500.00				
				12,300.00				12,300.00

JOHN DOE, *Marshal.*]

SUPPORT OF PRISONERS.

Dr.

FISCAL YEAR 1897.

Cr.

Date.	Items.	Reference to— Book.	No.	Amount.	Date.	Items.	Reference to— No.	Amount.
1896. July 6	Judiciary warrant No. 1932	U. S. F.	51	\$1,000.00	1896. Oct. 10	Acct. Sept. qr., 1896	Acct. cur.	\$1,100.00
Oct. 2	" " " 3450	" "	51	500.00	1897. Jan. 15	" Dec. " 1896	" "	1,075.00
Dec. 20	" " " 5170	" "	59	2,000.00	" Apr. 16	" Mar. " 1897	" "	1,288.50
1897. June 20	" " " 9107	" "	75	1,500.00	" July 20	" June " 1897	" "	1,356.40
				5,000.00	" "	Covered into Treas., ctf. of deposit No. 720	U. S. F. Book..	200.10
								5,000.00
1897. Oct. 10	Suspensions by Auditor, ctf. No. 1011. (Disallowed Oct. 20, 1897.)			12.60	1897. Nov. 1	Covered into Treas., ctf. of deposit No. 800	U. S. F. Book..	12.60
				12.60				12.60

JOHN DOE, *Marshal.*]

PAY OF BAILIFFS, ETC.

DR.

FISCAL YEAR 1897.

CR.

Date.	Items.	Reference to— Book.	Amount.	Date.	Items.	Reference to— No.	Amount.
1896. July 6	Judiciary warrant No. 1952.....	U. S. F.	\$500.00	1896. Oct. 10	Acct. Sept. qr., 1896.....	1	\$798.00
Oct. 2	" " " 3450.....	"	300.00	1897. Jan. 15	" Dec. " 1896.....	2	896.00
Dec. 20	" " " 5170.....	"	1,000.00	Apr. 16	" " " 1897.....	3	910.00
1897. Feb. 20	" " " 6425.....	"	500.00	July 20	" " " 1897.....	4	894.00
Mar. 30	" " " 7010.....	"	500.00	" 21	U. S. F. Book.....	61	212.00
June 20	" " " 9107.....	"	900.00		Covered into Treas., ctf. of deposit No. 720..		
			3,700.00				3,700.00

JOHN DOE, *Marshal.*]

MISCELLANEOUS EXPENSES.

DR.

FISCAL YEAR 1897.

CR.

Date.	Items.	Reference to— Book.	Amount.	Date.	Items.	Reference to— No.	Amount.
1896. July 6	Judiciary warrant No. 1952.....	U. S. F.	\$300.00	1896. Oct. 2	Repaid Mar. amt. advanced Sept. 30, 1896...	51	\$25.00
Sept. 30	Advanced by the marshal.....	"	25.00	Oct. 10	Acct. Sept. qr., 1896.....	1	400.00
Oct. 2	Judiciary warrant No. 3450.....	"	300.00	1897. Jan. 15	" Dec. " 1896.....	2	450.00
Dec. 20	" " " 5170.....	"	400.00	Apr. 16	" " " 1897.....	3	425.00
1897. Mar. 30	" " " 7010.....	"	350.00	July 20	" " " 1897.....	4	475.00
June 20	" " " 9107.....	"	400.00				
			1,775.00				1,775.00

INSTRUCTIONS TO UNITED STATES MARSHALS.

57

JOHN DOE, Marshal.]

U. S. FUNDS ACCOUNT.

DR.

UNDER BOND OF JULY 1, 1896.^a

CR.

Date.	Items.	Reference to—		Amount.	Date.	Items.	Reference to—		Amount.
		Book.	No.					No.	
1896. July 6 Oct. 2 Dec. 20	Judiciary warrant No. 1952 " " " 8450 " " " 5170	U. S. F. " " " "	51 51 59	\$5,300.00 3,600.00 9,900.00	1896. Oct. 10	Accts. Sept. qr., 1896— S. F. & E., \$1,300.05; jurors, \$600.00; witnesses, \$1,950.60; pris., \$1,100.00; bailiffs, \$798.00; and M. ex., \$400.00	Accts. cur.	1	\$6,148.65
1897. Feb. 20 Mch. 30 June 20	" " " 6425 " " " 7010 " " " 9107	" " " " " "	67 68 75	1,500.00 4,850.00 9,300.00	1897. Jan. 16 Jan. 20 Apr. 16 July 20 July 21	Accts. Dec. qr., 1896— S. F. & E., \$2,304.90; jurors, \$1,090.20; witnesses, \$3,720.00; pris., \$1,075.00; bailiffs, \$896.00; and M. ex., \$450.00 Supl. acct., Sept. qr., 1896— Fees of jurors Accts. Mch. qr., 1897— S. F. & E., \$1,719.51; jurors, \$900.25; witnesses, \$2,971.40; pris., \$1,268.50; bailiffs, \$910.00; and M. ex., \$425.00 Accts. June qr., 1897— S. F. & E., \$2,089.50; jurors, \$1,010.60; witnesses, \$3,150.30; pris., \$1,356.40; bailiffs, \$884.00; and M. ex., \$475.00 Covered into Treas., ctf. of deposit No. 730	" " " " " " " " U. S. F. Book..	2 3 3 & 4 4 & 5 61	9,536.10 50.00 8,194.66 8,965.80 1,564.79 34,450.00
1897. Oct. 10 Dec. 15	Suspensions by Auditor, ctf. No. 1011, from accts. for sup. of pris. (Disallowed Oct. 20, 1897). Suspensions by Auditor from accts. for sala- ries, fees, and expenses (Disallowed Dec. 30, 1897, \$104.81.)	" " " " " "	" " " " " "	34,450.00 12.60 188.81 202.41	1897. Nov. 1 Dec. 30 1898. Feb. 10 " 21	Covered into Treas., ctf. of deposit No. 800 Allowed by Auditor on explanation " " Comptroller on appeal Covered into Treas., ctf. of deposit No. 900	U. S. F. Book.. " " U. S. F. Book..	61 61 61	12.60 86.00 10.00 94.81 202.41

^a Not under fiscal years. This account should cover all transactions under a given bond. It should not be closed except upon the execution and approval of a new bond or upon expiration of the marshal's term of office.

JOHN DOE, U. S. Marshal.]

FEES AND COSTS.^a

Dr.

Cr.

Date.	Items.	Reference to—		Amount.	Date.	Items.	Reference to—		Amount.
		Book.	No.				Book.	No.	
1896. Sept. 24	S. M. Smith vs. Gordon and King.....	Civil doc ...	62	\$32.95	1896. Sept. 23	P'd to cl'k clr. ct. Receipt No. 1.....	Civil doc ...	63	\$6.40
" 28	Western Gaalight Co. vs. Eastern Electric Co.	" "	63	6.40	" 23	" " dist. " 2.....	" "	62	32.95
" 29	Arnold, Alex., et al. vs. Sch'n'r Sally Ann, etc.	" "	61	106.28	" 29	" " " 3.....	" "	61	106.28
				145.63					145.63

^a In civil cases.

JOHN DOE, U. S. Marshal.]

FEES AND COSTS.^a

Dr.

Cr.

Date.	Items.	Reference to—		Amount.	Date.	Items.	Reference to—		Amount.
		Book.	No.				Book.	No.	
1896. Sept. 24	S. M. Smith vs. Gordon and King.....	Civil doc ...	62	\$82.95	1896. Sept. 23	P'd to cl'k cl'r. et. Receipt No. 1.....	Civil doc ...	63	\$6.40
" 28	Western Gaslight Co. vs. Eastern Electric Co.	" "	63	6.40	" 26	" " 2.....	" "	62	\$2.96
" 29	Arnold, Alex., et al. vs. Sch'n'r Sally Ann, etc.	" "	61	106.28	" 29	" " 3.....	" "	61	106.28
				145.63					145.63

^a In civil cases.

REGISTER OF UNITED**REGISTER OF UNITED STATES PRISONERS COMMITTED**

Name.	Offense.	Temporary commitment.		
		Name of committing officer.	Date committed.	Date discharged.
John Smith.....	Violation internal-revenue laws.	Commr. Allen....	January 5, 1903	January 8, 1903
William Murphy...	Counterfeiting	" "	" "	" 17, "
Thomas Jones.....	Violation postal laws...	" Roberts..	" 7, "	" " "
W. B. Jones.....	Smuggling	" "	" 8, "	" " "

219. This book must be indexed as to jails and names of prisoners. Great care should be exercised in indexing names of prisoners to see that the prisoner's name appears but once in the index, and that it is followed always by the number of each page on which the name appears in the register.

CHAPTER IV.

ACCOUNTS.

	Page.
General instructions	62
Salaries, fees, and expenses of marshals	75
Fees of jurors	116
Fees of witnesses	121
Support of prisoners	128
Pay of bailiffs, etc	131
Miscellaneous expenses	135

GENERAL INSTRUCTIONS.

MUST REPRESENT ONLY ACTUAL BONA FIDE PAYMENTS.

220. Section 5438, Revised Statutes:

Every person who makes or causes to be made, or presents or causes to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, any claim upon or against the Government of the United States, or any Department or officer thereof, knowing such claim to be false, fictitious, or fraudulent, or who, for the purpose of obtaining or aiding to obtain the payment or approval of such claim, makes, uses, or causes to be made or used, any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry, or who enters into any agreement, combination, or conspiracy to defraud the Government of the United States, or any Department or officer thereof, by obtaining or aiding to obtain the payment or allowance of any false or fraudulent claim, * * * every person so offending in any of the matters set forth in this section shall be imprisoned at hard labor for not less than one nor more than five years, or fined not less than one thousand nor more than five thousand dollars.

221. Because of irregularities which have occurred in the rendition of accounts it is necessary to impress upon marshals the fact that whenever an account is presented it must represent money actually and fully paid to the payees named in the account. Neither the personal obligation of the marshal to the payee, nor a certificate issued showing that a certain amount is due, is regarded as payment.

222. The mere drawing of an official check without its delivery to the payee does not constitute a payment for which a marshal may claim credit in his accounts. In order to entitle the marshal to claim credit for a payment, the check covering said payment must not only have

been drawn, but must have been delivered by mailing or otherwise to the payee, without the imposition of any restriction concerning its collection.

223. The oath of the marshal that the account has been "fully paid in lawful money" must be literally true.

224. In the deputies' accounts each charge for service must represent service actually performed by the person claimed to have performed it, and each item of expense for which credit is claimed must represent money actually paid. The receipts taken by the marshal from the deputies must also represent full payments in lawful money.

225. The failure to fully observe the above renders marshals and deputies liable to dismissal and to criminal prosecution.

RENDITION AND APPROVAL.

226. Accounts of United States marshals must be prepared quarterly, in duplicate, upon forms furnished by the Department of Justice. The quarters of the fiscal year end September 30, December 31, March 31, and June 30. After preparation, the accounts must be rendered, together with the items and vouchers, to the court for approval, in accordance with section 1 of the act of February 22, 1875, and section 13 of the act of May 28, 1896, hereinafter quoted.

227. The quarterly accounts must be submitted for approval as above directed within twenty days after the close of each quarter. If submitted for approval later than twenty days after the close of any given quarter, a delinquency arises which must be waived by the Secretary of the Treasury, as section 12 of the act of July 31, 1894 (hereinafter quoted), prescribes that when a marshal fails to render his accounts within twenty days after the end of the quarter to which they relate no advance of funds shall be made to him unless such delinquency be waived by the Secretary of the Treasury.

228. If a marshal be delinquent in forwarding his accounts within the time specified by the act of July 31, 1894, he must immediately prepare, in duplicate, and forward to the Department, a statement showing the cause of the delay, in order that the matter may be submitted to the Secretary of the Treasury, together with such recommendation as may be deemed advisable.

229. Explanations of delinquencies should not be forwarded with accounts, but should be transmitted under separate cover.

230. When any part of an account is not approved by the court the item or items not approved should be specified. A schedule showing such items, if any, must be attached to the account, stating, seriatim and in detail, the reasons for disapproval.

231. Seals to copies of orders approving accounts are required, but seals of clerks to affidavits and to copies of orders relative to vouchers are not required, and charges therefor are not allowable.

232. After approval by the court, the original account, with the account current and each voucher and subvoucher plainly marked "original," will be forwarded to the Department of Justice, and the duplicate account, which must be in fact a duplicate and not merely a copy, must be filed in the office of the clerk of the court.

233. United States marshals are specially directed to cause all vouchers and other papers belonging to each account to be placed together in an orderly manner, with the account-current on top, and carefully separated by bands or otherwise from any other account or accounts transmitted in the same package.

**TEXT OF CERTAIN PROVISIONS OF LAW RELATIVE TO THE
RENDITION AND APPROVAL OF MARSHALS' ACCOUNTS.**

234. Section 1, act of February 22, 1875 (18 Stat. L., 333):

That before any bill of costs shall be taxed by any judge or other officer, or any account payable out of the money of the United States shall be allowed by any officer of the Treasury in favor of clerks, marshals, or district attorneys, the party claiming such account shall render the same, with the vouchers and items thereof, to a United States circuit or district court, and in the presence of the district attorney or his sworn assistant, whose presence shall be noted on the record, prove in open court, to the satisfaction of the court, by his own oath or that of other persons having knowledge of the facts, to be attached to such account, that the services therein charged have been actually and necessarily performed as therein stated, and that the disbursements charged have been fully paid in lawful money; and the court shall thereupon cause to be entered of record an order approving or disapproving the account, as may be according to law, and just. United States commissioners shall forward their accounts, duly verified by oath, to the district attorneys of their respective districts, by whom they shall be submitted for approval in open court, and the court shall pass upon the same in the manner aforesaid. Accounts and vouchers of clerks, marshals, and district attorneys shall be made in duplicate, to be marked, respectively, "original" and "duplicate." And it shall be the duty of the clerk to forward the original accounts and vouchers of the officers above specified, when approved, to the proper accounting officers of the Treasury, and to retain in his office the duplicates, where they shall be open to public inspection at all times. Nothing contained in this act shall be deemed in any wise to diminish or affect the right of revision of the accounts to which this act applies by the accounting officers of the Treasury, as exercised under the laws now in force.

235. The provision of the above section requiring accounts to be sent direct to the Treasury is modified by section 13 of the act of July 31, 1894 (28 Stat. L., 210), which requires:

Before transmission to the Department of the Treasury, the accounts of district attorneys, assistant attorneys, marshals, commissioners, clerks, and other officers of the courts of the United States, except consular courts, made out and approved as required by law, and accounts relating to prisoners convicted or held for trial in any court of the United States, and all other accounts relating to the business of the Department of Justice or of the courts of the United States other than consular courts, shall be sent with their vouchers to the Attorney-General and examined under his supervision.

236. Section 13, act of May 28, 1896 (29 Stat. L., 183):

That whenever in this act an officer is allowed actual expenses the account therefor shall be made out quarterly, in accordance with rules and regulations prescribed by the Attorney-General. When made out the account shall be verified on oath before an officer authorized to administer oaths.

237. The expense accounts of the marshals and their office deputies and the accounts of the field deputies shall be paid by the marshals; said accounts and the expense accounts of the district attorneys and their assistants, when made out in accordance with this act, shall be submitted to and examined by the circuit court or district court of the district, and when approved by the court shall be audited and allowed as now provided by law. Each marshal shall make such returns of the earnings and expenses of his office as shall be required under rules and regulations prescribed by the Attorney-General: *Provided*, That no office or field deputy shall receive compensation as bailiff, and no field deputy shall receive fees for representing the marshal in court.

238. Section 12, act of July 31, 1894 (28 Stat. L., 209):

All monthly accounts shall be mailed or otherwise sent to the proper officer at Washington within ten days after the end of the month to which they relate, and *quarterly and other accounts within twenty days after the period to which they relate*, and shall be transmitted to and received by the Auditors within twenty days of their actual receipt at the proper office in Washington in the case of monthly and sixty days in the case of quarterly and other accounts. Should there be any delinquency in this regard at the time of the receipt by the Auditor of a requisition for an advance of money, he shall disapprove the requisition, which he may also do for other reasons arising out of the condition of the officer's accounts for whom the advance is requested; but the Secretary of the Treasury may overrule the Auditor's decision as to the sufficiency of these latter reasons: *Provided*, That the Secretary of the Treasury shall prescribe suitable rules and regulations, and may make orders in particular cases relaxing the requirements of mailing or otherwise sending accounts, as aforesaid, within ten or twenty days, or waiving delinquency in such cases only in which there is or is likely to be a manifest physical difficulty in complying with the same; it being the purpose of this provision to require the prompt rendition of accounts without regard to the mere convenience of the officers, and to forbid the advance of money to those delinquent in rendering them: *Provided further*, That should there be a delay by the administrative departments beyond the aforesaid twenty or sixty days in transmitting accounts, an order of the President in the particular case shall be necessary to authorize the advance of money requested: *And provided further*, That this section shall not apply to accounts of the postal revenue and expenditures therefrom, which shall be rendered as now required by law.

239. Section 4, act of August 30, 1890 (26 Stat. L., 413):

That hereafter all disbursing officers of the United States shall render their accounts quarterly, and the Secretary of the Senate shall render his accounts as heretofore; but the Secretary of the Treasury may direct any or all such accounts to be rendered more frequently when, in his judgment, the public interests may require.

FISCAL YEAR AND APPROPRIATION.

240. It is contrary to law to use funds advanced under a given appropriation for the payment of expenses under another appropriation. It is of primary importance for a United States marshal to thoroughly

understand that upon the books of his office and in the preparation of all accounts, the receipts, disbursements, and balances under different appropriations must be maintained in all respects entirely separate and distinct. There must be in all cases an independent record and an independent accounting for funds under different appropriations.

241. Accounts, receipts, disbursements, and balances under the same appropriation for different fiscal years must also be maintained in all respects entirely separate and distinct, just as in the case of accounts, receipts, disbursements, and balances under different appropriations for the same fiscal year.

242. The fiscal year begins July 1 and ends June 30. The date or dates on which fees are earned or expenses incurred, and not the date of payment, determines the fiscal year of the appropriation from which payment covering said items must be made.

PREPARATION.

243. The first account current, under each appropriation, for each fiscal year should be numbered "1," and all others in progressive series. Should a new bond be given at any time, accounts under the old bond will be closed, all balances deposited, and the first accounts under the new bond, under each appropriation, for each fiscal year, will be again numbered "1."

244. Care must be taken to credit the United States with all advances made and to carry the proper balance from one account current to the next. Balances should not, however, be carried from one fiscal year to another, nor from an account stated under an old bond to an account stated under a new one. Always carry forward the balance found by the marshal, and not the balance found by the Auditor.

245. The balance, whether correct or incorrect, stated as due the United States by any account current, should be invariably brought forward without change to the next account current under the same appropriation for the same fiscal year and under the same bond. If it is necessary to correct said balance it should be done by making the proper debit or credit entry upon the succeeding account current with a brief explanation.

246. A disallowance made by the Auditor should not be credited in a subsequent account current, and if an amount is advanced from the marshal's private funds it should appear only as "balance due the United States marshal."

247. It is proper for the marshal, on his books and in his accounts, to charge the United States with amounts deposited to the credit of the Treasurer of the United States only when such deposits have been made to be covered into the Treasury to the personal credit of the marshal on account of disbursing funds

248. If no disbursements are made under any given appropriation during any given quarter, it will be proper to prepare an account current showing the fact that no disbursements were made, and have the said account current forwarded, together with the original quarterly accounts, but it should be specially noted that in such cases the account current should not be submitted for approval by the court.

249. Each regular quarterly account for the *current fiscal year* must include, first, all items earned and incurred during the quarter in so far as it may be practicable to pay same prior to the rendition of said account, and, second, all payments, if any, which have been made subsequent to the rendition of the last regular quarterly account, on account of items earned and incurred during prior quarters of *said fiscal year*.

250. The period stated upon the face of each account current and in the order of approval by the court should be the quarter for which the account is rendered, with the addition, in cases where supplemental items are included, of the words and figures "and supplemental to the quarter (or quarters, as the case may be) ended" (specifying the terminal date or dates of the quarter or quarters for which supplemental items are included).

251. A separate abstract must be prepared for each quarter involved in any given account, and vouchers for each quarter must be kept separate. There must be shown separately upon the debit side of each account current covering payments on account of more than one quarter the total amount disbursed on account of each quarter. The subdivisions shown by the printed form must be observed in entering disbursements for the quarter for which the account is rendered, and thereafter total disbursements for each quarter must be entered separately and in order, beginning with the quarter ending September 30.

252. Every effort must be made to pay *all* items accruing during any given quarter before the rendition of the regular quarterly accounts for said quarter. United States marshals will exercise the utmost diligence in causing prompt presentation of all pay rolls, etc., using effective measures which will prevent delay in submitting them, thus rendering the inclusion of supplemental items in regular quarterly accounts unnecessary.

SUPPLEMENTAL ACCOUNTS.

253. When payments are made on account of fees earned or expenses incurred during a *prior fiscal year* under any given appropriation after the regular quarterly accounts of said fiscal year have been rendered, said payments should be included in a supplemental account having separate abstracts for each quarter involved, and specifying separately and in order upon the face and debit side of the account current, and in the order of approval, the quarters for which items are included.

254. Supplemental accounts for prior fiscal years must be transmitted to this Department within twenty days after the close of the quarter in which payments are made, as in the case of regular quarterly accounts.

255. In every instance where it becomes necessary to render a supplemental account for a prior fiscal year, or to include supplemental items in a regular quarterly account, an affidavit must be furnished by the marshal, fully explaining why the items were not included in a prior account, and stating that it has been ascertained by a careful examination of all duplicate accounts in which said items might have been included, that they have not been previously charged against the United States.

256. Should the supplemental account be rendered under the appropriation for pay of bailiffs, and include charge for services of a crier, bailiff, or jury commissioner, the affidavit must also show that, including all claims in regular accounts as well as the supplemental in question, the lawful number of one crier and three bailiffs for attendance upon any one court on any one day has not been exceeded; also that not to exceed three per diems have been allowed for the services of a jury commissioner at any regular term of court including adjournments thereof.

257. In the matter of supplemental accounts for prior fiscal years, United States marshals will earnestly endeavor to cause the presentation of all outstanding claims, and pay same during the quarter ending September 30, so that there will be but one supplemental account, if any, under each appropriation. Supplemental accounts involve not only much additional labor in their examination and additional book-keeping, but greatly delay final settlements.

EXPLANATIONS.

258. The Department will from time to time call upon marshals for such explanations as may be deemed necessary in the examination of their accounts.

259. Responses to calls from the Department of Justice for information relative to accounts *should be made in duplicate*, and when required they must also be under oath.

260. When requests for explanations to accounts are sent to a marshal by this Department, they must be given *immediate attention*.

261. The delays that have occurred from time to time by reason of marshals' failure to answer the questions promptly have caused the necessity of asking the President to waive the requirements of the law in order that moneys might be advanced for court purposes.

262. Marshals will bear these instructions in mind, and see that in the future questions sent by the Department are *given precedence* and answers promptly made, in order that the accounts may be transmitted to the Treasury Department within the time required by law.

263. Explanations to suspensions made in an account by an Auditor of the Treasury should not be sent to the Department of Justice, but should be sent directly to the Auditor who made the suspensions. Explanations to suspensions made by the Auditor are not required in duplicate.

TREASURY DEPARTMENT,
OFFICE OF THE AUDITOR FOR THE
STATE AND OTHER DEPARTMENTS,
January 31, 1898.

DISALLOWANCES.

264. Explanations to disallowances made by the Auditor can not be considered except by the Comptroller of the Treasury on appeal, which must be taken within twelve months.

SUSPENSIONS.

265. 1. Explanations to suspensions must be addressed to the Auditor for the State and other departments.

266. 2. Different accounts must be explained in separate communications, so that the explanations may be filed with the proper accounts; separate accounts being stated under each appropriation and fiscal year. The fiscal year ends on the 30th of June.

267. 3. Refer to accounts by certificate *number* as well as appropriation and date.

268. 4. Explanations should be *sworn to*. If not sworn to when questions of fact are involved they will be returned for correction.

269. 5. Explain each item separately and in regular order, referring to item *number* and giving amount claimed under each item. Conceded items should be so indicated.

270. 6. In marshals' accounts when suspensions outstanding are brought forward from a prior account under the same appropriation and fiscal year, and explanations are made, always refer to the number of the account in which suspensions were originally made, and not to the subsequent account in which the differences appear as brought forward.

271. 7. All the items in an account must be explained at one time.

272. 8. Explanations should be made within sixty days, so that the items allowed may be included in the next quarterly account. Further time will be allowed only when good reasons are shown for the delay.

273. 9. Items suspended and remaining unexplained for one year will be disallowed.

274. 10. Explanations made to this office need not be in duplicate.

ERNST G. TIMME,
Auditor for the State and other Departments.

APPEAL FROM AND REVISION OF SETTLEMENTS.

275. Attention is invited to the following provisions in section 8 of the act of July 31, 1894 (28 Stat. L., 207), and the regulations of the Comptroller of the Treasury governing the revision of accounts settled by auditors:

276. The balances which may from time to time be certified by the Auditors to the Division of Bookkeeping and Warrants, or to the Postmaster-General, upon

the settlements of public accounts, shall be final and conclusive upon the executive branch of the Government, except that any person whose accounts may have been settled, the head of the Executive Department, or of the board, commission, or establishment not under the jurisdiction of an Executive Department to which the account pertains, or the Comptroller of the Treasury, may within a year obtain a revision of the said account by the Comptroller of the Treasury, whose decision upon such revision shall be final and conclusive upon the executive branch of the Government. * * *

277. Any person accepting payment under a settlement by an Auditor shall be thereby precluded from obtaining a revision of such settlement as to any items upon which payment is accepted; but nothing in this act shall prevent an Auditor from suspending items in an account in order to obtain further evidence or explanations necessary to their settlement. When suspended items are finally settled, a revision may be had as in the case of the original settlement. * * *

278. Disbursing officers, or the head of any Executive Department or other establishment not under any of the Executive Departments, may apply for and the Comptroller of the Treasury shall render his decision upon any question involving a payment to be made by them or under them, which decision, when rendered, shall govern the Auditor and the Comptroller of the Treasury in passing upon the account containing said disbursement.

REGULATIONS GOVERNING THE REVISION, BY THE COMPTROLLER OF THE TREASURY, OF ACCOUNTS SETTLED BY THE AUDITORS.

TREASURY DEPARTMENT,
OFFICE OF THE COMPTROLLER OF THE TREASURY,
Washington, D. C., April 25, 1895.

279. The following regulations governing the matter of applications to the Comptroller of the Treasury, for a revision of accounts settled by the Auditors of the Treasury, are published for the information and guidance of all persons interested.

280. Section 8 of the legislative, executive, and judicial appropriation act of July 31, 1894, which act in so far as it provided for a reorganization of the accounting offices of the Treasury became effective October 1, 1894, contains the following:

281. "The balances which may from time to time be certified by the Auditors to the division of bookkeeping and warrants, or to the Postmaster-General, upon the settlement of public accounts, shall be final and conclusive upon the executive branch of the Government, except that any person whose accounts may have been settled, the head of the Executive Department, or of the board, commission, or establishment not under the jurisdiction of an Executive Department, to which the account pertains, or the Comptroller of the Treasury, may, within a year, obtain a revision of said account by the Comptroller of the Treasury, whose decision upon such revision shall be final and conclusive upon the executive branch of the Government: *Provided*, That the Secretary of the Treasury may, when in his judgment the interests of the Government require it, suspend payment and direct the reexamination of any account.

* * * * *

282. "Any person accepting payment under a settlement by an Auditor shall be thereby precluded from obtaining a revision of such settlement as to any items upon which payment is accepted; but nothing in this act shall prevent an Auditor from suspending items in an account in order to obtain further evidence or explanations necessary to their settlement. When suspended items are finally settled, a revision may be had as in the case of the original settlement. Action upon any account or business shall not be delayed awaiting applications for revision: *Provided*, That the Secretary of the Treasury shall make regulations fixing the time which shall expire

before a warrant is issued in payment of an account certified as provided in sections 7 and 8 of this act."

283. Any person authorized by the law above cited to apply for a revision of an account should address a communication in writing directed to the Comptroller of the Treasury. In addition to a specific request for a revision, the communication should contain the following:

(1) The name and address of the person whose account is to be revised; and, if the application is by attorney, his address should be given, together with his authority to appear, or a reference to his power of attorney on file with the account or in the Department.

(2) The nature of the account or claim, by which Auditor it was settled, with the number and date of his certificate of settlement.

(3) The applicant should state the objections he has to the Auditor's settlement, and submit any reasons or arguments which he claims tend to show that such settlement was not in accordance with the law and facts.

(4) Claimants must state that the application is made in good faith, believing error to have been made in the settlement by the Auditor to their prejudice.

284. Attorneys wishing to present briefs should do so with the application for revision, but if not furnished at that time action will not be suspended unless notice is given that the attorney wishes to submit a brief, in which case a reasonable time will be given for that purpose. Attorneys wishing to submit oral arguments should give notice, and a time will be fixed by the Comptroller to suit their convenience so far as the condition of the business of the office will permit. The auditor who settled the account will be notified of the application for revision and opportunity given him to explain the reason for his action.

285. Attention is specially called to the fact that the law does not authorize the Comptroller to revise the settlement of an Auditor simply to the extent to which the applicant objects to such settlement, but upon a revision the *whole* account and *every item* of it is open for the consideration and final action of the Comptroller as if the account had not been theretofore audited. But one revision of an account will be made.

286. Attention is also called to that clause of the act above quoted which provides that: "Any person accepting payment under a settlement by an Auditor shall be thereby precluded from obtaining a revision of such settlement as to any items upon which payment is accepted." When an application for revision is upon an item or items part of which has been allowed by the Auditor, the warrant in payment of the account must be transmitted to the Comptroller with the application.

287. The Comptroller has no authority, upon the revision of an account, to consider items which have been simply *suspended* by the Auditor and not *disallowed*. An applicant should not, in his application for the revision of his account, explain suspended items, for such explanations will necessarily have to be ignored. All explanations of suspended items must be made directly to the Auditor who settled the account. When suspended items are *finally settled* by the Auditor (either by allowing or disallowing them in whole or in part), a revision may be had as in the case of the original settlement.

288. When an account has been revised the differences as found by the Comptroller will be certified to the Auditor for the statement of an account as required by law, and the applicant will be promptly notified of the action taken by the Comptroller.

289. A compliance with the requirements of the law and these regulations will facilitate the revision of accounts.

R. B. BOWLER, *Comptroller*.

Approved:

J. G. CARLISLE, *Secretary*.

EXTRAORDINARY EXPENSES.

290. Section 846, Revised Statutes, provides that where the ministerial officers of the United States have or shall incur extraordinary expense in executing the laws thereof, the payment of which is not specifically provided for, the President of the United States is authorized to allow the payment thereof, under the special taxation of the district or circuit court of the district in which the said services have been or shall be rendered, to be paid from the appropriation for defraying the expenses of the judiciary.

291. Should there be unusual difficulty attending the execution of process, anticipated or actual defiance of Federal authority, or other disturbance of an extraordinary character, the marshal should immediately communicate with the Department, representing the necessities of the situation, and thus obtain specific instructions in the premises.

292. If necessary, this communication should be by telegraph.

293. Expenses should not be incurred upon such occasions without previous authorization from this Department, unless the emergency will not admit of any delay whatever, in which event the requisite immediate action upon the part of the marshal must be reported to the Department at once.

294. Extraordinary expenses are payable from the appropriation out of which ordinary expenses of a similar character are payable.

295. Such expenses should be included in the regular accounts of the marshal, but in a separate voucher or vouchers, as supplemental items for prior quarters of the same fiscal year are now included.

296. Extraordinary expense vouchers of deputies should be accompanied by the usual affidavits and receipts.

297. Items of extraordinary expense should be submitted to the court for special taxation under section 846, Revised Statutes. The order taxing the expenses should be separate from and in addition to the order approving the regular account of the marshal, and should be in substantially the following form:

Whereas an account rendered by ———, United States marshal, under the appropriation ———, and for the period from ——— to ———, contains certain extraordinary expenses incurred in executing the laws of the United States (as fully set forth in the attached voucher), the payment of which is not specifically provided for by law:

The said expenses, amounting to — dollars and — cents, are hereby specially taxed under section 846, Revised Statutes.

298. A certified copy of the court's order should accompany extraordinary expense vouchers.

FEES AND COSTS IN EXTRADITION CASES.

299. Attention is invited to the following provision of the sundry civil appropriation act approved June 28, 1902 (32 Stat. L., 475):

Provided, That from and after June 30, 1903, all the fees and costs in extradition cases shall be paid out of the appropriations to defray the expenses of the judiciary, and the Attorney-General shall certify to the Secretary of State the amounts to be paid to the United States on account of said fees and costs in extradition cases, by the foreign government requesting the extradition, and the Secretary of State shall cause said amounts to be collected and transmitted to the Attorney-General for deposit in the Treasury of the United States.

300. The expenses of marshals and office deputies and the compensation of field deputies are payable from the appropriation "Salaries, fees, and expenses of marshals, United States courts." The fees of witnesses on behalf of the foreign government, and of witnesses subpoenaed under section 3 of an act approved August 3, 1882, on behalf of an indigent defendant, are payable from the appropriation "Fees of witnesses, United States courts." The expenses of supporting prisoners while in jail are payable from the appropriation "Support of prisoners, United States courts," and miscellaneous expenses are payable from the appropriation "Miscellaneous expenses, United States courts."

301. The above-mentioned fees and expenses in extradition cases are governed by the same rules and subject to the same limitations as in other cases, instructions concerning which will be found in appropriate places in this book.

302. Credit for disbursements in extradition cases under the various appropriations should be claimed in the regular accounts of marshals precisely as in other cases.

303. Fees and mileage should be reported in the accounts of marshals and office deputies in the same way as in other cases.

304. Each account containing charges in extradition cases should be accompanied with an abstract of such charges, which abstract should be separate from and in addition to the regular abstract, and should show the voucher and page where each case is to be found. Amended Form 21 should be used for accounts under the appropriation "Salaries, fees, and expenses of marshals," and Form 125 for other accounts. Only one additional abstract is necessary for each account containing such charges. It is absolutely necessary to have this abstract, and marshals should see that it accompanies every account containing charges in an extradition case.

305. When, in an extradition case, the entire amount of the fees and costs which have been or will be included in the accounts of the marshal has been ascertained, he should immediately furnish an itemized statement of such fees and costs to the judge or commissioner who

heard the case, in order that the latter may prepare and forward to this Department a certificate of all fees and costs of every nature in the case, including his own fees when the hearing is by a commissioner, for use in collecting the amount due from the foreign government.

306. If it is found necessary to employ an interpreter, the district attorney should apply to this Department for authority to do so. In case the representative of the foreign government desires to employ a stenographer to expedite the hearing, the stenographer should not be paid by the marshal, but by such representative. The representative should be informed, however, that the fees and costs of the witnesses, the compensation of the interpreter, and all other fees or expenses payable from appropriations from which advances are made to United States marshals, except the compensation of the stenographer above mentioned, will be paid by the marshal; that the fees of the commissioner will be paid by the United States from the appropriation "Fees of commissioners;" and that this Department will cause collection to be made from the foreign government through the Department of State.

307. No money should be received by a marshal from any source other than the United States on account of fees or expenses of any character in connection with extradition cases.

EVIDENCE OF PROPER PAYMENT OF VOUCHERS.

308. Attention is invited to the following circular of the Treasury Department concerning the evidence of proper payment of vouchers of disbursing officers of the United States, in addition to which this Department requires that in every instance the number and date of each check by which a payment is made by a United States marshal, and the name of the depository, shall be shown upon the marshal's vouchers.

[1903.—Department Circular No. 52.—Superseding Department Circular No. 75 of May 20, 1896.]

EVIDENCE OF PROPER PAYMENT OF VOUCHERS.

TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF THE TREASURY,
Washington, D. C., April 29, 1903.

309. The following regulations, in the matter of the evidence required by the accounting officers as proof of payment of vouchers, are published for the information and guidance of the disbursing officers of the United States:

310. 1. Vouchers must be stated in the name of the person, firm, company, or corporation rendering the service or furnishing the articles for which payment is made.

311. 2. If the payee be a partnership, the receipt to the voucher should be signed in the usual firm signature; if an incorporated or unincorporated company, the receipt should be in the company name, followed by the autograph signature of the officer (with his title) authorized to receive the money and receipt therefor.

312. 3. Evidence of the authority of the officer receipting for an incorporated or unincorporated company must accompany the voucher, or be on file, unless the payment is made by a check drawn on a United States depository, *to the order of the company*, and that fact, with the date and number of the check and name of the depository, is stated on the voucher.

313. 4. When a disbursing officer is satisfied that an attorney, agent, or officer is authorized to receipt for his principal, whether an individual, firm, company, or corporation, the receipt of the principal by the attorney, agent, or officer will be sufficient, without proof of authority accompanying the voucher, provided that payment is made by a check drawn on a United States depository and *payable to the order of the principal*, and the memorandum required in the preceding paragraph is made upon the voucher.

314. 5. All vouchers for services or supplies must contain a certificate of the proper officer that the services have been rendered, and in case of supplies, that they have been delivered and show by whom received.

315. 6. These regulations will not affect any additional regulations of the several departments, but are intended as a statement of the requirements of the accounting officers as proof that payments are made to the proper persons.

R. J. TRACEWELL, *Comptroller*.

Approved:

H. A. TAYLOR,
Acting Secretary of the Treasury.

316. The presentation by a disbursing officer of a voucher properly receipted by the person entitled to payment is but *prima facie* evidence of actual payment by him, and will not entitle him to credit unless the amount has been actually paid to the proper person or his representative. (1 Comp. Dec., 228.)

SALARIES, FEES, AND EXPENSES OF MARSHALS.

GENERAL INSTRUCTIONS.

317. The accounts of marshals under the appropriation "Salaries, fees, and expenses of marshals, United States courts," should include the fees and expenses of field deputies, expenses of marshals and office deputies, and office expenses of marshals as provided by law. Instructions as to the preparation of the vouchers which should be included in accounts under this appropriation, and as to the fees and expenses allowable, will be found under the headings "Compensation and accounts of field deputies," "Expense accounts of marshals and office deputies," and "Accounts of office expenses."

318. Form 19 should be used as the account current under this appropriation.

319. When an account contains charges in internal-revenue cases or in Chinese-exclusion cases the following certificate of the district attorney or his assistant should be attached to the account current:

I, ———, United States district attorney for the ——— district of ———, hereby certify that I have examined this account, and that in no internal-revenue case mentioned herein was the warrant of arrest issued upon the sworn complaint of a private citizen unless first approved in writing by the district attorney;

And that in each case commenced since March 2, 1901, under the Chinese-exclusion laws, wherein charges are made in this account, the warrant of arrest was issued upon the sworn complaint of a United States district attorney, assistant United States district attorney, collector, deputy collector, or inspector of customs, immigration inspector, United States marshal or deputy United States marshal, or Chinese inspector, or that the issuance of such warrant of arrest was first approved or requested in writing by the United States district attorney of the district in which issued.

United States District Attorney.

320. The Comptroller of the Treasury has decided that within the meaning of the proviso to section 19 of the act of May 28, 1896, all persons other than the officers mentioned in said proviso are private citizens.

321. Each account should contain a complete record of the services rendered by the marshal and his deputies during the period for which the account is rendered, regardless of the amount actually paid. If, for any reason, only a part of the fees and expenses earned and incurred during the period were paid, the receipts of the marshal and his deputies should represent only the amounts actually paid.

322. When payment is made on account of fees earned or expenses incurred in a prior quarter and reported in the account for that quarter, receipts should be taken for the amounts so paid. If the fees were earned or the expenses incurred during the current fiscal year, the receipts should accompany the regular quarterly account as supplemental items. If during a prior fiscal year, the items should be rendered in a supplemental account for that fiscal year. In either case, reference should be made to the vouchers where the record of the service appears.

323. In like manner an incoming marshal, making payments on account of services and expenses of his predecessor's deputies, will make reference to the record of service filed with the outgoing marshal's accounts, and transmit with his accounts current simply receipts for the actual payments so made to said deputies.

324. Payment may be made by one check or by several checks as amounts become due. Payment should not be made in advance, such being contrary to section 3648, Revised Statutes.

325. The aggregate amount of the checks by which the marshal or a deputy was paid should correspond exactly with the amount receipted for by the marshal or deputy.

326. Receipted vouchers should represent actual disbursements, and should be wholly disconnected with the repayment of erroneous items pertaining to another account.

ABSTRACT OF VOUCHERS.

327. An abstract of the vouchers accompanying the account should be made on Amended Form 22. The number of each voucher, the name of the marshal or deputy, and the footing of each column of Amended Form 21 should be carried to the proper place on Amended Form 22.

328. The first two columns on the left are to be used only for the fees of field deputies.

329. In the first column should be entered the gross fees earned by field deputies.

330. The second column must contain only the amount paid by the United States marshal to field deputies on account of fees earned.

331. Amounts paid by the United States marshal for travel and subsistence of marshal, office deputies, and field deputies, and guard hire, should be entered in the third column.

332. The column headed "Other expenses paid by marshal" should show all expenses paid by him other than expenses of travel and subsistence and guard hire, such as expenses of keeping personal property, office expenses, etc.

333. The heading of the next column, "Amounts paid by marshal and receipted for," explains the use of said column. Amounts entered in this column will be the total of the three preceding columns.

334. The remaining columns will be a consolidation of the data shown in said columns by amended Form 21 for each United States marshal, office deputy, and field deputy.

EARNINGS FROM INDIVIDUALS AND CORPORATIONS.

335. A marshal, before rendering service other than for the United States, must exact a deposit or bond sufficient to cover his fees and costs in the case, unless the party for whom the services are to be rendered is relieved from prepaying fees or costs or giving security therefor as provided in section 1 of the act of July 20, 1892, entitled "An act providing when plaintiff may sue as a poor person and when counsel shall be assigned by the court." He will be held to a strict accountability for failure to do this.

336. Bonds must be so drawn as specifically to cover the payment of all costs which may accrue to the United States.

337. When a civil litigant makes a deposit with the marshal to cover fees and expenses, the marshal will give a receipt on Form 63 for the amount so deposited.

338. Section 6 of the act of May 28, 1896 (29 Stat. L., 179), provides that all fees and emoluments authorized by law to be paid to United States marshals prior to the approval of said act shall be charged as theretofore, and shall be collected as far as possible and paid to the clerk of the court having jurisdiction.

339. Marshals must make collections as promptly as possible.

340. A marshal collecting the fees fixed by law for services rendered by himself or deputies is required by section 6 of the act of May 28, 1896, to pay the same to the clerk of the court to be deposited into the Treasury, and can not use any part thereof for any purpose. (3 Comp. Dec., 601.)

341. *When the expenses of a marshal or an office deputy on a trip are greater than the mileage, or when the expenses of a field deputy on a trip on which he elected to take actual expenses in lieu of mileage are greater than the mileage, the actual expenses and the amount of the fees for serving the process should be collected and paid to the clerk of the court. But when the mileage exceeds the actual expenses of the trip, the mileage and the amount of the fees for serving the process should be collected.*

342. When two or more writs are served on the same trip on behalf of different individuals or corporations, mileage should be charged on each of such writs. But when more than two writs on behalf of the same party on the same person are served at the same time, mileage should be charged on only two of such writs. It is believed that the proviso as to mileage contained in the act of August 18, 1894 (28 Stat. L., 416), does not affect the mileage to be charged to individuals and corporations on writs served for them. In case objection shall be made to this interpretation of the law, the marshal should submit the matter to the court and ask instructions.

343. When a writ is served on behalf of the United States and another on behalf of an individual or corporation on the same trip, mileage should be charged to and collected from the individual or corporation, unless additional travel is necessary to serve the writ on behalf of the United States, in which event the additional mileage should be charged or reported on the writ served on behalf of the United States.

344. In the districts of Oregon, Nevada, New Mexico, Arizona, Idaho, Wyoming, and North Dakota the marshals must collect double fees from individuals and corporations for whom process is served.

345. When for any reason it shall be necessary that an expense not provided for in section 829, Revised Statutes, be incurred in a case in which the United States is not a party, *the expense should not be charged in the marshal's account nor paid to the clerk of the court*, but should be paid by one or more of the parties to the suit, in accordance with an order or rule of court.

346. In cases in which the United States is not a party, expenses of keeping personal property under section 829, Revised Statutes, paragraphs 2 or 14, when paid by the marshal to parties other than his deputies for such keeping, should not be charged in the marshal's account nor paid to the clerk of the court. (See paragraph 611.)

347. If the services were rendered by the marshal or his deputies, the amount should be collected by the marshal and paid to the clerk of the court having jurisdiction.

348. All money collected on account of earnings from individuals and corporations must be paid to the clerk of the court in accordance with section 6 of the act of May 28, 1896, and receipts taken therefor on Form 71. Such receipts should be taken in duplicate. The originals should be retained by the marshal, and the duplicates attached to the original account.

349. Instead of reporting earnings from individuals and corporations on Amended Form 72, as heretofore, marshals will hereafter report all earnings from individuals and corporations on the abstract of the voucher (Amended Form 21) in which the earnings are entered. Instructions as to the manner of making up the abstract are given on pages 84 and 108. Amounts collected and paid to the clerk on account of earnings during the quarter should be shown on the abstract in the column provided for that purpose, and the number of the clerk's receipt should be given.

350. If there are earnings from individuals and corporations during the quarter that have not been collected and paid to the clerk, such uncollected earnings, in addition to being shown on Amended Form 21, should be reported on Amended Form 72.

351. The statement of amounts earned during the quarter but not collected should show under the head of "Remarks" why the amounts were not collected and paid to the clerk, and this information should also be given on the page of the account where the charges appear.

352. If collections are made during the quarter on account of earnings for prior quarters, such collections should be reported on Amended Form 72, as heretofore.

353. In the statement of collections on account of earnings for prior quarters no entry should be made in the column "Amount of earnings," but only in the column "Amount paid to clerk."

354. If in any quarter there are no uncollected earnings, or no collections on account of earnings for prior quarters, the marshal should make a certificate to that effect on Amended Form 72, and have the same accompany the account.

355. The receipts of the clerk relating to each voucher should be arranged in the order in which the cases are entered on the abstract, and should be attached to the upper left-hand corner of the abstract of the voucher to which they relate.

356. When ordering Form 71 state the last number used

COMPENSATION AND ACCOUNTS OF FIELD DEPUTIES.**GENERAL INSTRUCTIONS AS TO COMPENSATION.**

357. Section 11 of the act of May 28, 1896 (29 Stat. L., 182), provides that each field deputy shall receive as his compensation—

* * * three-fourths of the gross fees, including mileage, as provided by law, earned by him, not to exceed one thousand five hundred dollars per fiscal year, or at that rate for any part of a fiscal year;

358. And in addition shall be allowed his actual necessary expenses, not exceeding two dollars a day, while endeavoring to arrest, under process, a person charged with or convicted of crime:

359. *Provided*, That a field deputy may elect to receive actual expenses on any trip in lieu of mileage.

360. *Provided*, That in special cases, where in his judgment justice requires, the Attorney-General may make an additional allowance, not, however, in any case to make the aggregate annual compensation of any field deputy in excess of twenty-five hundred dollars nor more than three-fourths of the gross fees earned by such field deputy.

361. Section 13 of the same act provides—

That no office or field deputy shall receive compensation as bailiff, and no field deputy shall receive fees for representing the marshal in court.

362. The prohibition against a field deputy marshal receiving fees for representing the marshal in court does not prevent the payment to him of mileage fees for travel to attend court when it is not practicable for the marshal or office deputy to be present. (3 Comp. Dec., 735.)

363. A field deputy marshal who elects to take actual expenses in lieu of mileage when traveling to the place where he attends on the court as the representative of the marshal, and who is prohibited by law from receiving fees for such attendance, can not be allowed, as a part of his actual expenses, the cost of subsistence, etc., incurred at the place of holding court. (4 Comp. Dec., 8.)

364. When the fees of a field deputy marshal for services rendered during a fiscal year amount to \$1,500 before the end of the year, he must continue to serve during the whole year in order to receive the maximum compensation of \$1,500 per annum fixed by law, his expenses while so serving being covered by actual expenses allowed in lieu of mileage when process is served, or actual expenses, not exceeding \$2 per day, on an unsuccessful endeavor to arrest. (3 Comp. Dec., 575.)

365. A field deputy marshal who is entitled to compensation from fees not exceeding \$1,500 per annum can be paid only at that rate for a period less than a year, but the surplus earnings of one quarter may be paid to make up a deficiency in any other quarter of the same fiscal year. (3 Comp. Dec., 226.)

366. The salary tables of the Treasury Department are not to be used in computing the amount of the maximum compensation to which a field deputy is entitled for a portion of a fiscal year. He should be allowed such proportion of the maximum compensation for the whole year as the number of days of service bears to the number of days in the year. (See 6 Comp. Dec., 778.)

FEE BILL.**367. Section 829, Revised Statutes:**

(1) For service of any warrant, attachment, summons, capias, or other writ, except execution, venire, or a summons or subpoena for a witness, two dollars for each person on whom service is made.

(2) For the keeping of personal property attached on mesne process, such compensation as the court, on petition setting forth the facts under oath, may allow.

(3) For serving venires and summoning every twelve men as grand or petit jurors, four dollars, or thirty-three and one-third cents each. In States where, by the laws thereof, jurors are drawn by lot, by constables, or other officers of corporate places, the marshal shall receive, for each jury, two dollars for the use of the officers employed in drawing and summoning the jurors and returning each venire, and two dollars for his own services in distributing the venires. But the fees for distributing and serving venires, drawing and summoning jurors by township officers, including the mileage chargeable by the marshal for each service, shall not at any court exceed fifty dollars.

(4) For holding a court of inquiry or other proceedings before a jury, including the summoning of a jury, five dollars.

(5) For serving a writ of subpoena on a witness, fifty cents; and no further compensation shall be allowed for any copy, summons, or notice for a witness.

(6) For serving a writ of possession, partition, execution, or any final process, the same mileage as is allowed for the service of any other writ, and for making the service, seizing or levying on property, advertising and disposing of the same by sale, set-off, or otherwise according to law receiving and paying over the money, the same fees and poundage as are or shall be allowed for similar services to the sheriffs of the States, respectively, in which the service is rendered.

(7) For each bail bond, fifty cents.

(8) For summoning appraisers, fifty cents each.

(9) For executing a deed prepared by a party or his attorney, one dollar.

—(10) For drawing and executing a deed, five dollars.

(11) For copies of writs or papers furnished at the request of any party, ten cents a folio.

(12) For every proclamation in admiralty, thirty cents.

(13) For serving an attachment in rem or a libel in admiralty, two dollars.

(14) For the necessary expenses of keeping boats, vessels, or other property attached or libeled in admiralty, not exceeding two dollars and fifty cents a day.

(15) When the debt or claim in admiralty is settled by the parties without a sale of the property, the marshal shall be entitled to a commission of one per centum on the first five hundred dollars of the claim or decree, and one-half of one per centum on the excess of any sum thereof over five hundred dollars: *Provided*, That, when the value of the property is less than the claim, such commission shall be allowed only on the appraised value thereof.

(16) For sale of vessels or other property under process in admiralty, or under the order of a court of admiralty, and for receiving and paying over the money, two and one-half per centum on any sum under five hundred dollars, and one and one-quarter per centum on the excess of any sum over five hundred dollars.

(17) For disbursing money to jurors and witnesses, and for other expenses, two per centum.

(18) For expenses while employed in endeavoring to arrest, under process, any person charged with or convicted of a crime, the sum actually expended, not to exceed two dollars a day, in addition to his compensation for service and travel.

- (19) For every commitment or discharge of a prisoner, fifty cents.
- (20) For transporting criminals, ten cents a mile for himself and for each prisoner and necessary guard; except in the case provided for in the next paragraph.
- (21) For transporting criminals convicted of a crime in any district or Territory where there is no penitentiary available for the confinement of convicts of the United States, to a prison in another district or Territory designated by the Attorney-General, the reasonable actual expense of transportation of the criminals, the marshal, and the guards, and the necessary subsistence and hire.
- (22) For attending the circuit and district courts, when both are in session, or either of them when only one is in session, and for bringing in and committing prisoners and witnesses during the term, five dollars a day.
- (23) For attending examinations before a commissioner, and bringing in, guarding, and returning prisoners charged with crime, and witnesses, two dollars a day; and for each deputy not exceeding two, necessarily attending, two dollars a day.
- (24) For traveling from his residence to the place of holding court, to attend a term thereof, ten cents a mile for going only.
- (25) For travel, in going only, to serve any process, warrant, attachment, or other writ, including writs of subpoena in civil or criminal cases, six cents a mile, to be computed from the place where the process is returned to the place of service, or, when more than one person is served therewith, to the place of service which is most remote, adding thereto the extra travel which is necessary to serve it on the others. But when more than two writs of any kind required to be served in behalf of the same party on the same person might be served at the same time, the marshal shall be entitled to compensation for travel on only two of such writs; and to save unnecessary expense, it shall be the duty of the clerk to insert the names of as many witnesses in a cause in such subpoena as convenience in serving the same will permit.
- (26) In all cases where mileage is allowed to the marshal he may elect to receive the same or his actual traveling expenses, to be proved on his oath, to the satisfaction of the court.

GENERAL INSTRUCTIONS AS TO ACCOUNTS.

368. The accounts of field deputies should be prepared quarterly and in duplicate. They should be paid by the marshal from the appropriation "Salaries, fees, and expenses of marshals, United States courts," and included as vouchers in his account under that appropriation.

369. The originals should be transmitted to this Department with the marshal's original account, and the duplicates placed with the marshal's duplicate account to be filed in the clerk's office.

370. All charges for services and expenses of a field deputy payable from the appropriation "Salaries, fees, and expenses of marshals, United States courts," whether earned or incurred in cases in which the United States is or is not a party, must be included in one account.

371. When an account of a field deputy is presented, the marshal must see that it is correct, containing only lawful charges, namely, the expenses allowed by section 11 of the act of May 28, 1896—subsistence of prisoners while in the custody of the deputy and before commitment, and three-fourths of the gross fees earned, not exceeding the rate of \$1,500 per fiscal year, except where in special cases the maximum compensation which a field deputy may earn has been increased

in accordance with said section, when payment may be at such increased rate. But in no case shall a marshal pay a deputy more than three-fourths of the gross fees earned by him.

372. Each charge for service must represent service actually performed by the person claiming to have performed it, and each item of expense for which credit is claimed must represent money actually paid to the party indicated by the receipt.

373. If, on account of insufficient funds, excess of the earnings of a field deputy over his maximum for the quarter, or for any other reason, a marshal pays such deputy an amount less than three-fourths of the gross fees earned by him and his actual and necessary expenses as allowed by law for that quarter, the complete record of the service of the deputy for the entire quarter should, nevertheless, be in the account of the deputy for that quarter.

374. The accounts of field deputies must be closed at the end of the fiscal year. If a field deputy earns during a fiscal year less than his maximum, the amount of the deficiency can not be paid him.

375. Whenever a field deputy marshal renders an account for services in a case and charges are made in the same case in another place, either in his own account or that of another deputy or the marshal for the current quarter or for a prior quarter, reference must be made to the account and page where such other charges appear.

376. When an account shows a writ to have been in the possession of a deputy for some time, and previous trips have been made to the vicinity of the place of service, an explanation should be made in the account, giving the reasons why the writ was not served on a previous trip.

377. The fees and expenses of one case only should be charged on any one page. Only one side or page of each sheet should be used.

378. The pages should be numbered and arranged according to the date of the first item of fees or expenses.

379. The name of the deputy should appear at the top of each page and the marshal's docket number should be given at the bottom.

380. The date of each item of service and expense should be given in the column on the left of the page (do not "ditto") and each item of service should be definitely stated.

381. When an item is supported by a receipt, the number of the receipt should be given.

382. Separate footings of the fees and expenses charged on each page should be made and the amounts carried to the proper columns on the abstract.

383. The receipts belonging to each page should be numbered and arranged chronologically and attached to the page to which they relate.

384. The abstract should be placed before the first page of the account and the affidavit and receipt of the deputy should follow the last page.

385. The account should be placed within the covers provided for that purpose (Form 320) and neatly fastened, and all the blanks on the cover should be filled out.

386. When a deputy is paid by a single check the date, number, and amount of the check and the name of the depository on which drawn should be given at the bottom of the affidavit and receipt. When paid by several checks a list of the checks, showing the date, number, and amount of each, and the name of the depository on which drawn, should be appended.

387. The aggregate amount of the checks should correspond exactly with the amount receipted for by the deputy.

ABSTRACT OF DEPUTY'S ACCOUNT.

388. An abstract of the deputy's account should be made on Amended Form 21 and should be placed before the first page of the account. It should show at the top the name of the deputy and the quarter for which the account is rendered. The number of the page, the title of the case, and the fees and expenses charged on each page should be entered in the proper places on the abstract. The entries should be made in the order in which the pages of the account are numbered.

389. In the first column there should be entered the gross fees earned by the deputy. No distinction will be made between United States cases and other cases nor between civil and criminal cases. When actual expenses are charged in lieu of mileage, no mileage should appear in this column.

390. The second column must contain only the proportion of the fees of field deputies payable by the United States. If in any quarter a field deputy earns in excess of the maximum allowed by law, this column must not show three-fourths of the total gross fees, but only the amount payable by the United States for the quarter for which the account is rendered. This column should not be used for each entry on the abstract, but should show only the total, computed from the total of column 1.

391. Expenses of travel and subsistence and guard hire payable by the United States should be entered in the third column.

392. The column headed "Other expenses payable by the United States" should show all expenses payable by the United States other than expenses of travel and subsistence and guard hire, as expenses of keeping personal property, etc., actually paid by the deputy.

393. The column headed "Amount due deputy" should not be used for each entry on the abstract. It should be used only for the sum of the footings of the three preceding columns.

394. The column "All gross fees" is for statistical purposes only. When a field deputy charges mileage on a trip, this column should

include the fees for serving the process and the mileage. When he elects to receive actual expenses in lieu of mileage and the expenses are greater than the mileage, the expenses should be added to the fees for serving the process and included in this column. In other words, where the expenses of a trip exceed the mileage they should be treated as fees, so far as this column is concerned. But when a field deputy elects to receive actual expenses in lieu of mileage and the mileage equals or exceeds the expenses, the mileage should be added to the fees for serving the process and included in this column as though the deputy had charged mileage and not actual expenses.

395. All amounts earned from individuals and corporations should appear in the seventh column, the earnings in each case to be entered separately. The amount collected in each case and paid to the clerk of the court for deposit should be shown in the next column, and the last column should show the number of the clerk's receipt therefor.

AFFIDAVIT AND RECEIPT OF DEPUTY.

396. Form No. 20 should be used for the affidavit of a field deputy to his account and as a receipt for the amount paid him by the marshal. It should be attached to the deputy's voucher after the last sheet thereof. The amount stated in the affidavit should represent the total gross fees plus the total expenses. The affidavit may be executed before anyone authorized to administer oaths generally. If before a notary public or other officer having a seal, except a clerk or deputy clerk of a United States court, he should always affix his seal. A notary public should, in addition, state when his commission will expire.

397. A field deputy is not entitled to reimbursement for the expense of swearing to his account.

398. When the requirement that a field deputy marshal shall swear to the correctness of his account for fees and expenses can not be complied with because of his death, the marshal may certify to the correctness of the account and pay the same to the administrator of the deputy's estate. (3 Comp. Dec., 451.)

399. The receipt must show only the amount actually paid in lawful money to the deputy.

RECEIPTS.

400. Form 13 should be used for receipts, except when the items are so numerous that they can not be shown on the form. Hotel bills should be made out on the billheads of the hotel.

401. Two receipts should always be taken, one to be marked original and the other duplicate. The original should be attached to the deputy's original account, the duplicate to the duplicate account. Care should be taken not to send duplicate receipts with the original account, as it causes much needless correspondence and delay in the settlement of accounts.

402. Each receipt in a case should be numbered according to the time when the expense was incurred. The place, the date, the name of the deputy, the amount, and the title of the case should be shown. The receipt should be so stated as to indicate the exact nature of the expense, and whether it was incurred for a deputy, prisoner, or guard. If for meals and lodging the first and last meal or lodging should be given, thus: For meals and lodging from breakfast April 6 to and including lodging April 7.

403. Receipts for subsistence of a deputy should be separate from those for the subsistence of prisoners and guards

404. Receipts should be entirely filled out before they are presented to the payee for signature and should show the exact amount paid. Receipts "in full" or for "the above amount" are improper.

405. Receipts should be signed in ink or with indelible pencil by the person to whom the payment was made. If the person is unable to write, he should sign by cross mark, which should be witnessed by some one other than the deputy.

406. Field deputies must always furnish receipts for the following expenses: Lodging and subsistence of deputy, prisoners, or team, whether for a single meal or lodging or for a longer period; team hire; stage fare, and guard hire.

407. Receipts are not required for railroad fare; Pullman fare; steamboat fare; stateroom; street-car fare; toll; ferriage; bus fare; portorage; meals from supplies carried by deputy; nor for deputy's own horse or team.

408. A marshal or his deputy is not required, under the practice of the accounting officers, to furnish receipts for railroad fare. (3 Comp. Dec., 156.)

409. In cases between individuals and corporations receipts should be furnished the same as in cases in which the United States is a party.

410. No signs of alteration or erasure should appear upon a receipt; but if they do appear, they must always be fully explained.

FEES AND EXPENSES IN THE SERVICE OF WARRANTS OF ARREST.

411. The fees and expenses of field deputies in the service of warrants of arrest, in the transportation of prisoners (except expenses under paragraph 21, section 829), and in the service of subpoenas on witnesses for preliminary examinations should be charged on Amended Form 26.

412. The account should show the title of the case; the offense charged (by briefly stating the nature of the offense and referring to the section of the statutes violated); by whom the complaint was made; when, by whom, and where the warrant was issued; when and where received by the deputy; date when executed and place of execution (by giving

the county and the distance and direction from the nearest post-office); date of return, place, and before what officer.

413. The following example will illustrate the manner in which Amended Form 26 should be filled out:

AMENDED FORM No. 26.

H. B. HOLMAN, field deputy United States marshal.

Services in case of— THE UNITED STATES v. ALLEN GREEN.	}	Offense charged: Carrying on business without payment of special tax—violation section 3242, Revised Statutes. Complaint made by H. B. Holman. Warrant issued July 25, 1903, by J. M. Somervell, United States commissioner at Texarkana, Ark.
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Received by deputy July 28, 1903, at Texarkana, Ark. Executed 5 miles south from Foreman, in Little River County, August 7, 1903. Returned with the defendant, August 8, 1903, before United States Commissioner John M. Somervell at Texarkana.

Dates.	In the above case fees were earned and expenses incurred, as follows:	Fees.	Ex- penses.				
1903. Aug. 7	1. Actual and necessary travel, in going only, to serve warrant, from Texarkana, 41 miles, at 6 cents per mile	\$2.46	.....			
7	2. Expenses incurred while endeavoring to arrest:						
7	Railroad fare, Texarkana to Foreman	\$1.08					
7	Dinner at Foreman (voucher 1) .....	.50				
7	Livery hire, Foreman to place of arrest (voucher 2)	1.00					
	Total	2.58					
	Maximum allowed by law for 1 day		\$2.00				
7	3. Serving warrant (defendant taken into custody)	2.00					
7	4. Mileage, transporting self and 1 prisoner from place of arrest to Texar- kana 41 miles, and guard, miles, 10 cents per mile each	8.20					
8	5. Actual expenses feeding prisoner, as follows:						
10	Dinner at Foreman (voucher 3)	\$0.25					
	Basket lunch for dinner and supper, 10th, en route to Fort Smith (voucher 4) .....	.50				
	Total charged in account .....		.75		
8	6. Discharging defendant on temporary bond						
	7. Committing defendant on temporary commitment issued by J. M. Somervell, U. S. commissioner .....	.50				
	8. Discharging defendant from custody of deputy (defendant not held for court)						
	9. Discharging defendant from custody of deputy on final bond						
10	10. Mileage, transporting self, 1 prisoner, and guard from Texarkana to jail at Fort Smith, 192 miles, at 10 cents per mile each	38.40					
10	11. Committing defendant to jail at Fort Smith on commitment issued by J. M. Somervell, U. S. commissioner .....	.50				
10	12. Attendance of Deputy H. B. Holman before Commissioner J. M. Som- ervell, 1 day	2.00					
	13. Serving 3 subpoenas for plaintiff's witnesses	1.50					
Memoranda of subpoena service.							
Issued.	Received.	Date of service.	Served on—	Place of service.	Travel.		
1903. July 25	1903. July 28	1903. Aug. 8	Dick Johnson	13 mi. S. Foreman	8	.48	
Do...	do...	do...	Dock Johnson	11 mi. S. Foreman			
Do...	do...	do...	Geo. Houston	12 mi. S. Foreman			
Amounts carried to abstract						56.04	2.75

Remarks.....
 Voucher No. 10; page No. 11; docket No. 3869.

FEES AND EXPENSES IN THE SERVICE OF WRITS OF CAPIAS OR BENCH WARRANTS.

414. Form 54 should be used in charging the fees earned and expenses incurred in the service of a capias or bench warrant. The form should be filled out in practically the same manner as Form 26.

The act of March 3, 1887 (24 Stat. L., 541), provides that—

415. Hereafter no part of the appropriations made for the payment of fees for United States marshals or clerks shall be used to pay the fees of United States marshals or clerks upon any writ or bench warrant for the arrest of any person or persons who may be indicted by any United States grand jury, or against whom an information may be filed, where such person or persons is or are under a recognizance taken by or before any United States commissioner, or other officer authorized by law to take such recognizance, requiring the appearance of such person or persons before the court in which such indictment is found or information is filed, and when such recognizance has not been forfeited or said defendant is not in default, *unless the court in which such indictment or information is pending orders a warrant to issue.*

416. In all cases where charge is made for serving a capias or bench warrant it must be shown whether the defendant was on bail; and if so, it must be shown whether the recognizance was forfeited or the defendant in default or whether the warrant was issued upon the order of the court in which the indictment or information is pending. It is not sufficient for the allowance of fees that the warrant was issued under a general practice of the court or by the direction of the district attorney, but must be upon the order of the court.

417. A field deputy who arrested a person on a capias specially ordered to issue by the court is entitled to his share of the fees earned and expenses incurred in such arrest, although the defendant was at the time on bond to appear before the court out of which the capias issued. (See Comp. Dec. to Mar. Allen, Jan. 5, 1900.)

FEES AND EXPENSES IN CIVIL CASES.

418. Fees earned and expenses incurred in civil cases may be charged on Form 25 or Form 68.

419. The account should show the title of the case; the cause of action or the nature of the case; the name of the writ or writs; when, by whom, and where issued; when and where received by the deputy; when and where returnable; when, on whom, and where executed; and the number of miles traveled going to serve, which should be shown even though the deputy elect to take actual expenses in lieu of mileage.

420. In cases in which the United States is a party it should be shown whether each item of service is on behalf of the United States or the other party.

421. When any charges are made under paragraph 6 of section 829, Revised Statutes, full explanation should be made, and where services are charged for under the fee bill of any State, there should be given,

on each page containing such a charge, an exact quotation from the State statute authorizing the fees, with a reference to where it may be found.

422. As by the act of May 28, 1896, a field deputy marshal receives from the United States his compensation for all services, he is required to furnish in support of his accounts the same receipts and vouchers for expenses incurred in cases in which the United States are not a party as are required by established practice in cases in which they are a party. (3 Comp. Dec., 156.)

423. Mileage in civil cases is governed by section 829, Revised Statutes of the United States, and not by the fee bill of any State.

424. Under the act of July 20, 1892, which provides that a person who is unable to pay the costs of a suit may commence a suit in any court of the United States without payment of fees and costs in advance or giving security therefor, but that the United States shall not be liable for any of the costs thus incurred, a marshal is not authorized to pay the costs of publishing a monition in a suit in admiralty against a vessel or of keeping the vessel while in his custody. (7 Comp. Dec., 203.)

425. Under the provision in section 5 of the act of July 20, 1892, that the United States shall not be liable for costs in suits brought by poor litigants, a field deputy marshal is not entitled to compensation for serving process for such litigant unless the fees earned by him are collected. (8 Comp. Dec., 380.)

426. The compensation of a field deputy marshal for all his services, in cases between individuals as well as in cases to which the United States are a party, is paid by the United States, and is governed entirely by the statutes fixing the fees of such officers without relation to the fees which may actually be paid by a private litigant for the services rendered by the deputy and which are covered into the Treasury. (3 Comp. Dec., 733.)

427. A field deputy marshal is not entitled to a fee for any service rendered on behalf of a party to a suit unless there is a fee specifically provided by law for that particular service. (3 Comp. Dec., 733.)

428. The amount of fees which a field deputy is to receive is prescribed by the clause in section 11 of the act of May 28, 1896, and is the same in all cases whether the United States are a party or not. This compensation does not depend upon the amount which may be taxed, either against the defendant in a criminal case or the unsuccessful party in civil proceedings, which is governed by the provisions of section 6, and is to be collected and paid to the clerk of the court. It is clear, therefore, that a field deputy marshal is not entitled to receive more than one mileage for travel on any one trip. (3 Comp. Dec., 239.)

429. The question of the fees to be allowed to a field deputy marshal for the service of process does not involve the question of the fees to be charged private litigants, the latter being for the determination of the court upon the taxation of the costs. (3 Comp. Dec., 239.)

430. In the districts of Oregon, Nevada, New Mexico, Arizona, Idaho, Wyoming, and North Dakota double fees should be collected from the litigants in suits between individuals and corporations, but field deputies in those districts should be paid only three-fourths of single fees.

431. See "Fees for serving writs of possession, etc.," page 104, and "Fees and expenses in admiralty cases," page 104.

MILEAGE GOING TO SERVE PROCESS.

432. *For travel, in going only, to serve any process, warrant, attachment, or other writ, including writs of subpoena in civil or criminal cases, six cents a mile * * *. (Par. 25, Sec. 829.)*

433. The mileage allowed as compensation to a field deputy marshal for going to serve process is to be computed from the place where he enters upon the service to the place of service; provided that no greater mileage can be allowed than from the place he receives the process to the place of service, for any additional travel, although actually made, is not necessary. (4 Comp. Dec., 561.)

434. A field deputy can not "be allowed more than one mileage for each mile actually and necessarily travelled, irrespective of the number of writs he may execute in making such travel."

435. A field deputy marshal who serves two or more writs upon the same trip is prohibited by the act of August 18, 1894, from receiving more than one mileage for the trip, regardless of the fact that the writs may be served upon different parties and in different cases. (3 Comp. Dec., 239.)

436. A field deputy can not "be allowed any additional mileage incident to the execution or return of any writ of arrest, commitment, or removal other than the ten cents a mile now allowed by law for each deputy, prisoner, and guard."

437. Mileage can not be allowed upon any writ not executed.

438. Mileage can not be allowed when travel was without cost to the deputy.

439. Where a marshal serves several writs upon the same trip, he must elect to take mileage or actual expenses for the whole trip. He can not take mileage in part and expenses in part, although he claims mileage on one writ to place of service and actual expenses on another writ from the place where the first writ was served. (1 Comp. Dec., 128.)

440. A field deputy marshal is not entitled, for the same trip, to mileage for travel in going to serve a subpoena and also to actual expenses for travel in returning to his official station or to the place from which service was begun; but he must elect whether he will receive mileage for going only or actual expenses for the entire travel in going and returning. (6 Comp. Dec., 963.)

441. Travel by a deputy marshal to serve a warrant of arrest, where there was another deputy nearer to the place of arrest, was unnecessary, and he is not entitled to mileage therefor. (8 Comp. Dec., 233.) See also 8 Comp. Dec., 312.

442. Travel by a deputy marshal to the place of his headquarters to serve a subpoena on a witness to appear before a United States commissioner eight days after its issuance was unnecessary, and he is not entitled to mileage therefor. (8 Comp. Dec., 233.)

443. A field deputy marshal who receives telegraphic notice from the marshal that a subpoena or attachment has issued for a witness is not entitled to mileage, or actual expenses in lieu thereof, in traveling to notify the witness. (4 Comp. Dec., 369.)

444. A field deputy marshal is not entitled to any allowance, either as mileage or actual expenses in lieu thereof, for an unsuccessful endeavor to serve a writ of execution. (3 Comp. Dec., 147.)

445. A field deputy marshal is not entitled to mileage or to actual expenses for an unsuccessful endeavor to serve a subpoena. (13 Comp. MS. Dec., 86.)

446. Under the provision in section 876, Revised Statutes, authorizing the service of subpoenas in civil cases on witnesses who live out of the district a distance not greater than 100 miles, a field deputy marshal who traveled by a circuitous route more than 100 miles to serve a subpoena on a witness who lived out of the district at a distance not greater than 100 miles in a straight line is entitled to mileage for 100 miles only. (7 Comp. Dec., 812.)

447. The provision in section 1030, Revised Statutes, that no fee shall be charged by a clerk of court or a marshal for issuing or serving an order of court to bring into court a prisoner who is in custody, does not apply to an order to bring into court for trial a prisoner held in a jail in another county than that in which the court is sitting, and a deputy marshal is entitled to mileage for travel in going to serve such an order. (8 Comp. Dec., 177.)

448. The account must show the place where the deputy entered upon the service, and mileage must be computed from that place to the place of service, unless the distance is greater than the distance from the place where the warrant was received to the place of service, in which case mileage should be charged from the place where the warrant was received.

449. Travel should be made by the shortest usually traveled route.

450. Whenever travel is made by other than the most direct route, an explanation should accompany the account, giving the reasons for such longer travel. If the reasons given are not satisfactory, mileage will be allowed by the most direct route.

451. If two or more writs are served on the same trip only one mileage should be charged for each mile actually and necessarily traveled.

452. The deputy must not charge mileage on part of a trip and actual expenses in lieu of mileage on the rest of the trip. He must charge mileage or actual expenses in lieu of mileage on the whole trip.

453. When a field deputy has two or more writs in his hands which can be executed upon the same trip it is his duty to do so, and in such cases only one mileage will be allowed.

454. When a writ is served on behalf of the United States and another on behalf of an individual or corporation on the same trip, mileage should be charged to the individual or corporation and not on the writ served on behalf of the United States, unless additional travel is necessary to serve the latter, in which event the additional mileage should be charged on the writ served on behalf of the United States.

ACTUAL EXPENSES IN LIEU OF MILEAGE.

455. *Provided, That a field deputy may elect to receive actual expenses on any trip in lieu of mileage.* (Sec. 11, act of May 28, 1896.)

456. When a field deputy elects to receive actual expenses in lieu of mileage he is entitled to such expenses to the place of service and return

therefrom to the place from which he started to make the service, or to his official station. (See 6 Comp. Dec., 926.)

457. Where a marshal serves several writs upon the same trip, he must elect to take mileage or actual expenses for the whole trip. He can not take mileage in part and expenses in part, although he claims mileage on one writ to place of service and actual expenses on another writ from the place where the first writ was served. (1 Comp. Dec., 128.)

458. A field deputy marshal is not entitled for the same trip to mileage for travel in going to serve a subpoena and also to actual expenses for travel in returning to his official station, or to the place from which service was begun; but he must elect whether he will receive mileage for going only or actual expenses for the entire travel in going and returning. (6 Comp. Dec., 963.)

459. A field deputy marshal who elected to take actual expenses in lieu of mileage in transporting a number of prisoners committed to jail by a commissioner is entitled to actual expenses for the travel of himself and a necessary guard, including the per diem compensation for guard service. (7 Comp. MS. Dec., 464.)

460. The expenses should be fully itemized and supported by receipts as required by paragraphs 406 and 407.

461. When expenses of lodging and subsistence are charged, the account must show the first and last meal or lodging.

462. If charge is made for provisions carried by the deputy or for hire of the deputy's horse or team, the fact should always be stated, and the amounts charged must be reasonable and not exceeding those usually charged in the district.

463. When railroad fare is charged, the points from and to which travel is made and the name of the railroad should be given. When it is practicable to purchase a round-trip ticket for less than the straight fare both ways, the deputy should do so.

464. When charge is made for team hire, the date or dates on which the team was used and the places from and to which travel was made should be given.

465. When a field deputy elects to receive actual expenses in lieu of mileage, mileage should not be carried into the footing nor to the abstract, but the account should in all cases show the number of miles traveled, in going only, to serve. This information is necessary for statistical purposes, and should be as exact as if mileage were charged.

EXPENSES ENDEAVORING TO ARREST.

466. * * * *and in addition shall be allowed his actual necessary expenses, not exceeding two dollars a day, while endeavoring to arrest, under process, a person charged with or convicted of crime.* (Sec. 11, act of May 28, 1896.)

467. Under the practice of the accounting officers a deputy marshal is entitled to reimbursement for expenses in endeavoring to make an arrest, not to exceed an average of \$2 per day, although the amount exceeds that sum on some days. (Comp. Dec. to Mar. Cooper, May 12, 1902.)

468. Expenses endeavoring can be averaged only when incurred on consecutive days.

469. A field deputy is entitled to expenses endeavoring to arrest only from the time he starts on the trip to arrest until the time of the arrest. His right to such expenses ceases the moment he takes the prisoner into custody.

470. Even if the deputy has two or more writs he is not entitled to more than \$2 per day. He is not entitled to \$2 per day unless he actually expends that amount.

471. A deputy marshal without process is not entitled to any allowance as for expenses while endeavoring to arrest under process. * * * (3 Comp. Dec., 665.)

472. Only an internal-revenue officer is authorized to execute a search warrant issued under section 3462, Revised Statutes, and a field deputy marshal is not entitled to expenses for endeavoring to execute such a warrant. (6 Comp. Dec., 469.)

473. A field deputy may, under the provisions of section 11, act of May 28, 1896, receive \$2 per day for his actual necessary expenses while endeavoring to arrest under process a person charged with or convicted of crime. While he arrests under a writ of attachment, yet a writ of attachment commanding the arrest of a recalcitrant witness is not a process wherein the person is charged with or convicted of crime. Hence a field deputy is not entitled to actual necessary expenses while endeavoring to serve a subpoena or writ of attachment even if it were in his hands. (4 Comp. Dec., 371.)

474. The field deputy of a marshal is entitled, under section 11 of the act of May 28, 1896, to three-fourths of the fees formerly allowed to a marshal under section 829, Revised Statutes, and he is also entitled, as were marshals, to charge railroad fare as a part of his expenses, within the limit of \$2 per day, in endeavoring to arrest. (3 Comp. Dec., 51.)

475. The maximum allowance for expenses endeavoring to arrest is the same in double as in single fee districts.

476. No expense incurred after an arrest is made should be charged as an expense endeavoring to arrest.

477. Expenses endeavoring to arrest can be allowed even though the arrest is not made, but in such cases the account must state specifically what efforts were made to arrest the defendant and show the points from and to which travel was made and the number of miles traveled on each day for which expenses are charged.

478. Expenses incurred while endeavoring to arrest should be fully itemized and supported by receipts as required by paragraphs 406 and 407.

479. If charge is made for provisions carried by the deputy or for hire of the deputy's horse or team, the fact should always be stated, and the amounts charged must be reasonable and not exceeding those usually charged in the district.

480. When charge is made for team hire, the date or dates on which the team was used and the places from and to which travel was made should be given. Make the charge something like this: Team hire, February 24 and 25, from Oak Ridge to Montebello.

FEES FOR SERVING WARRANTS, ETC.

481. *For service of any warrant, attachment, summons, capias, or other writ, except execution, venire, or a summons or subpoena for a witness, two dollars for each person on whom service is made.* (Par. 1, Sec. 829.)

482. A warrant of arrest does not run beyond the district out of which it issues, and a marshal can not receive fees and expenses for serving such writ in any other district than that of the court or the commissioner who issued it. (1 Comp. Dec., 127.)

483. While section 1027, Revised Statutes, provides that only one warrant shall be necessary to commit for trial a person against whom more than one charge is made, yet when two or more warrants are in fact issued and delivered to the marshal for service he is entitled to the fees allowed by law for serving each warrant. (3 Comp. Dec., 261.)

484. A marshal is entitled to the fee provided by statute for serving a warrant, although the United States commissioner who issued it did not have jurisdiction of the person to be arrested, if the warrant, taken in connection with the complaint or affidavit attached thereto, did not show upon its face that the commissioner did not have jurisdiction of the subject-matter. (5 Comp. Dec., 299.)

485. A deputy marshal is not entitled to compensation for serving a warrant which the facts stated on its face disclose to have been illegally issued. (6 Comp. Dec., 213.)

486. The provision in the act of March 3, 1887, which prohibits the payment of fees to marshals or clerks of courts for the service of a bench warrant for the arrest of a person who is under a recognizance, does not apply to a writ or warrant issued by a United States commissioner for the arrest of such person for a different offense, and a deputy marshal is entitled to compensation and mileage for serving such second writ or warrant. (8 Comp. Dec., 197.)

487. A mandate or warrant issued by a United States commissioner to a jailer for the release of a prisoner to be brought before him for the purpose of giving bail is a writ authorized by law, for serving which a deputy marshal is entitled to the fee provided for by law. (7 Comp. Dec., 731.)

488. For travel to serve the mandate of a commissioner to bring a prisoner before him to be discharged under section 1042, Revised Statutes, serving the mandate, transporting the prisoner, attendance before the commissioner, and discharge of the prisoner a field deputy marshal is authorized to receive three-fourths of the following fees: For serving the mandate, \$2; mileage going to serve the mandate, at 6 cents a mile; mileage for transporting the prisoner and deputy marshal, at 10 cents a mile each; for attendance before a commissioner, \$2; for discharge of the prisoner, if the discharge is ordered by the commissioner, 50 cents. (3 Comp. Dec., 161.)

489. An act approved March 1, 1879 (20 Stat. L., 341), provides that—

Where any marshal or deputy marshal of the United States within the district for which he shall be appointed shall find any person or persons in the act of operating an illicit distillery, it shall be lawful for such marshal or deputy marshal to arrest such person or persons, and take him or them forthwith before some judicial officer named in section one thousand and fourteen of the Revised Statutes, who may reside in the county of arrest or, if none, in that nearest to the place of arrest, to be dealt with according to the provisions of sections ten hundred and fourteen, ten hundred and fifteen, ten hundred and sixteen of the said Revised Statutes.

490. Section 19 of the act approved May 28, 1896 (29 Stat. L., 184), provides that—

Warrants of arrest for violations of internal-revenue laws may be issued by United States commissioners upon the sworn complaint of a United States district attorney, assistant United States district attorney, collector or deputy collector of internal revenue, or revenue agent, or private citizen, but no such warrant of arrest shall be issued upon the sworn complaint of a private citizen unless first approved in writing by a United States district attorney.

491. Under section 19 of the act of May 28, 1896, a United States commissioner has no authority to issue a warrant on the complaint of a deputy marshal who arrested a defendant in the act of operating an illicit distillery, the complaint not having been approved by the district attorney *before* the warrant was issued, and he is not entitled to fees therefor. (4 Comp. Dec., 338.)

492. A United States commissioner is not authorized to issue a warrant of arrest upon a complaint made by a deputy marshal or by a storekeeper and gauger without the approval of the district attorney, as required by the act of May 28, 1896; and the deputy marshal is not entitled to any fee for serving such a warrant, nor to any fee or expense for any service in connection therewith. (4 Comp. Dec., 448.)

493. Under section 19 of the act of May 28, 1896, which provides that no warrant of arrest for a violation of the internal-revenue laws shall be issued upon the complaint of a private citizen "unless first approved in writing by a United States district attorney," a subsequent approval of a warrant does not authorize the payment of fees to a deputy marshal, upon whose complaint the warrant issued, for services rendered either before or after the date of approval. (4 Comp. Dec., 672.)

494. Only an internal-revenue officer is authorized to execute a search warrant issued under section 3462, Revised Statutes, and a field deputy marshal is not entitled to expenses for endeavoring to execute such a warrant. (6 Comp. Dec., 469.)

495. The search warrant mentioned in the last preceding paragraph was addressed to a deputy collector of internal revenue and was served by a deputy marshal.

496. The provision in section 829, Revised Statutes, for the compensation of marshals for serving process, "two dollars for each person on whom service is made," is not to be construed as excluding compensation for the service of a search warrant. (9 Comp. Dec., 154.)

497. A field deputy is entitled to his share of the fee provided by law for serving on a jailer a writ or order of removal, except where prohibited by section 1030, Revised Statutes. He is not entitled to any fee for serving a writ of commitment on the jailer to whom the prisoner is delivered other than the fee of 50 cents for commitment. (See Comp. to Mar. Allen, July 8, 1901.)

498. A United States commissioner is not authorized to issue a writ of attachment for a defaulting witness, and a deputy marshal is not entitled to any fee for or expenses incurred in serving such writ so issued. (7 Comp. Dec., 389.)

499. When a marshal proceeds in accordance with the provisions of section 1014, Revised Statutes, upon a writ of attachment for a defaulting witness issued from another district, he is entitled to the fees earned under such procedure, even if the writ might have been lawfully executed in his district by the marshal of the district from which it issued. (3 Comp. Dec., 246.)

500. A marshal is authorized to serve a subpoena in a criminal case, an attachment for a defaulting witness, or a writ of habeas corpus *ad testificandum* anywhere

within the United States. (6 Comp. Dec., 926; 1 Comp. Dec., 127; but see also 8 Comp. Dec., 276.)

501. A marshal is not entitled to any fees for serving in his district a writ of scire facias issued by the district court of another district and directed to the marshal of the latter district, as such a writ does not run out of the district from which it issues. (3 Comp. Dec., 526; 9 Comp. Dec., 331.)

MILEAGE FOR TRANSPORTING PRISONERS.

502. *For transporting criminals, ten cents a mile for himself and for each prisoner and necessary guard; except in the case provided for in the next paragraph.* (Par. 20, Sec. 829.)

503. An act approved August 18, 1894 (28 Stat. L., 416), provides:

That it shall be the duty of the marshal, his deputy, or other officer, who may arrest a person charged with any crime or offense, to take the defendant before the nearest circuit court commissioner or the nearest judicial officer having jurisdiction under existing laws for a hearing, commitment, or taking bail for trial, * * * and no mileage shall be allowed any officer violating the provisions hereof.

504. Under the provisions of this act a person charged with crime should be taken before the United States commissioner nearest the place of arrest, or before the nearest other judicial officer having jurisdiction under existing laws, who is no farther from the place of arrest than such nearest commissioner.

505. Under the act of August 18, 1894, requiring a marshal to take his prisoners before the circuit court commissioner nearest to the place of arrest, the question as to which of two or more officers is the nearest within the meaning of the act is one of fact for determination in each particular case. (2 Comp. Dec., 354.)

506. The "nearest commissioner," within the meaning of the act of August 18, 1894, is not necessarily the one who is nearest by geometrical measurement, but may be one who is nearest by the most practical and usually traveled route. (2 Comp. Dec., 354.)

507. When a marshal claims mileage for taking a prisoner before a commissioner who is not the *nearest* in a straight line from the place of arrest, the burden is upon him to show that such officer was the nearest within the meaning of the act of August 18, 1894. (2 Comp. Dec., 354.)

508. Under the act of August 18, 1894, which requires that a prisoner shall be taken before the nearest commissioner, a deputy marshal who takes a prisoner before a commissioner who is not the nearest, because of apprehension that the prisoner will be rescued by outlaws if taken through the country necessary to traverse to reach the nearest commissioner, is not entitled to mileage therefor. (7 Comp. Dec., 104.)

509. A deputy marshal who took a prisoner before a United States commissioner who was not the commissioner nearest the place of arrest, for the reason that it was thought that the jails at places of nearer commissioners were not sufficiently secure, is not entitled to mileage. (6 Comp. Dec., 222.)

510. The plea of economy to the Government will not justify a marshal in taking a prisoner before other than the nearest commissioner in order that he may summon witnesses en route. (See Comp. Dec. to Mar. Hammer, May 16, 1901.)

511. Where a deputy marshal took two prisoners whom he had arrested before the nearest commissioner, who refused to hear the case, and the deputy then took them before the next nearest commissioner, the second commissioner was the nearest commissioner within the meaning of the act of August 18, 1894, which requires that

a prisoner when arrested shall be taken before the nearest commissioner or other judicial officer. (See Comp. to Marshal Griffith, September 16, 1898.)

512. The Comptroller of the Treasury has held that persons arrested on writs of *habeas corpus* need not be taken before the nearest commissioner, but should be taken directly to court, if in session, unless the defendant desires to and can give bail for his appearance, in which case he may be taken before a United States commissioner for that purpose. If taken before a commissioner he should be taken before the nearest commissioner. Under the act of February 22, 1875, the allowance of mileage for unnecessary travel is prohibited. (See Comp. Dec. to Mar. Allen, Oct. 17, 1900.)

513. A marshal arresting a prisoner under the Chinese exclusion act is not entitled to mileage for transporting him to the commissioner who issued the warrant when there was at the place of arrest an officer authorized by section 13 of the exclusion act to hear the cause, the travel not being necessarily performed within the meaning of the act of February 22, 1875. (2 Comp. Dec., 457.)

514. While the act of Congress approved August 18, 1894, has been held not to apply to Chinese deportation cases, the question of the necessity for taking a Chinese person before other than the United States commissioner or committing magistrate nearest to the place of arrest is always involved; and the burden will be upon the marshal to show that such necessity actually existed.

515. Attention is invited, however, to an act approved March 3, 1901 (31 Stat. L., 1093), which provides:

That it shall be lawful for the district attorney of the district in which any Chinese person may be arrested for being found unlawfully within the United States, or having unlawfully entered the United States, to designate the United States commissioner within such district before whom such Chinese person shall be taken for hearing.

516. When a commissioner is designated as provided in said act, the Chinese person arrested is to be taken before the commissioner designated to hear the case. The account should state that the commissioner before whom the prisoner was taken was designated to hear the case.

517. That route by which it was alone practicable for a deputy marshal to make the journey in one day must be regarded as the shortest usually traveled route, and he is entitled to mileage for the transportation of prisoners by such route. (10 Comp. MS. Dec., 719; 12 Comp. MS. Dec., 603, 844.)

518. A marshal who while transporting a prisoner departed from the shortest usually traveled route in order to serve a subpoena on a witness is entitled to only 6 cents per mile for himself for the additional distance so traveled, and not to 10 cents per mile for himself and the prisoner also. (6 Comp. Dec., 697.)

519. A marshal who, in transporting a prisoner, departed from the shortest usually traveled route for the purpose of returning to the owner a team hired from him is not entitled to mileage for the additional distance so traveled. (6 Comp. Dec., 697.)

520. Under the practice of the accounting officers, mileage for transporting a prisoner against whom no written charge was pending and for whose arrest no warrant

had been issued, is allowed, where a warrant has been subsequently issued and served, or its service waived by the accused. (4 Comp. Dec., 450; 12 Comp. MS. Dec., 77; 19 Comp. MS. Dec., 584.)

521. A field deputy marshal is not entitled to fees for transporting a prisoner who had been admitted to bail and who was subsequently, *during a session of the court*, arrested at the instance of his surety and recommitted by a United States commissioner, section 1018, Revised Statutes, providing for such arrest and recommitment during vacation only. (6 Comp. Dec., 449.)

522. Where a prisoner while being transported by a deputy marshal escaped, payment of expenses incurred in his transportation or of mileage or compensation for the service of the warrant, the warrant not having been executed, is not authorized. (19 Comp. MS. Dec., 775.)

523. The marshal of the southern district of New York, who transports convicts from New York City to the State penitentiary in Erie County in the northern district of New York is entitled to fees at the rate of 10 cents per mile for the transportation, instead of the actual expense thereof. (164 U. S., 82.)

524. The places from and to which mileage is charged must be shown.

525. Travel should be made by the shortest usually traveled route.

526. Whenever travel is made by other than the most direct route, an explanation should accompany the account, giving the reasons for such longer travel. If the reasons given are not satisfactory, mileage will be allowed by the most direct route.

527. When a defendant is taken to the headquarters of the commissioner nearest the place of arrest for hearing and that commissioner is absent, or for any other reason does not hear the case, the prisoner should be taken from that place to the nearest commissioner, and mileage charged for the necessary additional travel.

528. When it is known that the commissioner nearest the place of arrest is absent from his headquarters the prisoner should be taken to the commissioner next nearest the place of arrest.

529. When a defendant is taken to the headquarters of a commissioner for hearing and for any reason that commissioner does not hear the case, a certificate setting forth the circumstances fully should be obtained from him and attached to the page of the account to which it relates.

TRANSPORTING ON WARRANT OF REMOVAL.

530. When prisoners are transported to another district on warrants of removal a field deputy is entitled to 10 cents a mile for himself and each prisoner and necessary guard, as provided by paragraph 20 of section 829, or, if he so elects, to actual expenses in lieu of mileage.

531. The fees and expenses connected with the transportation of prisoners on warrants of removal should be charged on Form 26, but on a separate page from that on which the fees and expenses for making the arrest are charged.

532. No commitment fee should be charged for delivering a prisoner to the marshal of another district.

533. A receipt for the bodies of the prisoners should be taken from the marshal of the district to which transported, and attached to the page of the account to which it relates.

EXPENSES OF FEEDING PRISONERS.

534. The actual necessary expenses of feeding prisoners while in the custody of a deputy should be paid by him and included in his account. A deputy should never pay the expense of subsisting prisoners after they have been committed to jail, as the expense is then payable from the appropriation "Support of prisoners."

535. Receipts must be furnished in all cases.

536. By a long-established practice the appropriation for salaries, fees, and expenses of marshals has been held applicable to expenses incurred by a marshal and his deputy in providing for a prisoner in his custody, except while placed in jail, until the prisoner has been formally committed. After the prisoner has been committed, and while temporarily placed in jail, the appropriation for support of prisoners has been held applicable to expenses for his support. (4 Comp. Dec., 525.)

GUARDS USED IN TRANSPORTING PRISONERS.

537. Field deputies are allowed three-fourths of 10 cents per mile for each necessary guard used in transporting prisoners. It is expected that the compensation of the guard will be paid by the deputy.

538. Guards should be employed *only when actually necessary for the safe transportation of prisoners*. The question as to the necessity for a guard in a particular case is left to the discretion of the marshal. It is therefore the duty of the marshal to scrutinize carefully all charges for the transportation of guards.

539. Trainmen, drivers of vehicles, etc., must not be employed as guards.

540. No per diem fee can be allowed for the attendance of a guard upon an examination before a United States commissioner or other committing magistrate.

541. When a guard is employed in transporting prisoners a certificate in the form given below should be obtained from him and attached to the page of the account to which it relates. The form should be entirely filled out:

No. _____

Place,	
Date,, 190..	
I CERTIFY that I was employed and acted as guard over	
....., United States prisoner, in charge of	
....., deputy United States marshal, on, 190..	
from to, a distance	
of miles.	
....., Guard.	
Post-office address,	Occupation,

ORIGINAL.

542. It should be stated at the bottom of the page, under the head of "Remarks," why a guard was considered necessary. The mere statement of the deputy that a guard was necessary will not be accepted, as deputies sometimes grossly abuse the privilege of employing guards.

STATIONARY GUARDS.

543. When it is absolutely necessary to employ a guard over a prisoner or prisoners at a place where there is no jail, such guard may be employed and paid at a rate not exceeding \$2 per day while actually and necessarily employed. The expense of employing a guard under the conditions mentioned will be allowed in the deputy's quarterly account.

544. When it is necessary to employ a guard over a prisoner or prisoners during the daytime, and another guard over the same prisoner or prisoners during the night, each may be paid not exceeding \$2.

545. A certificate of the guard on Form 12 should be obtained and attached to the page of the account to which it relates. The form is given below and should be entirely filled out.

No.

Place	
Date, 190..	
I HEREBY CERTIFY that I have been employed and have acted	
..... day.. as a guard over	
....., United States prisoner.., in	
charge of....., deputy marshal,	
from, 190.., to, 190.., at	
....., pending final examination before United States	
commissioner, and received therefor..... dollars.	
....., Guard.	
Occupation,	P. O. address,
I DO CERTIFY that there is no jail at....., and that the	
services as above stated were rendered and were absolutely necessary for	
the safe custody of the prisoner.. herein named.	
....., Deputy Marshal.	

ORIGINAL.

FEEES FOR ATTENDANCE BEFORE COMMISSIONERS.

546. For attending examinations before a commissioner, and bringing in, guarding, and returning prisoners charged with crime, and witnesses, two dollars a day; and for each deputy not exceeding two, necessarily attending, two dollars a day. (Par. 23, sec. 829.)

547. When a field deputy attends more than one examination before the same commissioner on the same day he is entitled to but one per diem for such attendance. When he attends two or more examinations before *different* commissioners on the same day he is entitled to a per diem fee for attendance before each commissioner. (See 164 U. S., 81; 6 Comp. Dec., 616.)

548. Per diems of more than two deputies for attendance in the same case on the same day can not be allowed.

549. Usually not more than one deputy is necessary, and when two are in attendance the necessity must be shown. If the hearing is held at the headquarters of the marshal or an office deputy and the attendance of more than one officer is necessary, the marshal or an office deputy should attend if practicable.

550. Under section 829, Revised Statutes, a field deputy marshal is entitled to a per diem fee for attendance upon an examination before a United States commissioner in the absence of the defendant, upon the continuance of an examination which had been previously begun. (5 Comp. Dec., 250.)

551. Under section 829, Revised Statutes, a field deputy marshal is entitled to a per diem fee for attendance before a United States commissioner upon a release on bond of prisoners who had been arrested on writs of *capias* or bench warrants. (5 Comp. Dec., 252.)

552. A judge sitting as an examining magistrate is acting as a United States commissioner, and a marshal is entitled to a per diem fee for attendance before him. (8 Comp. Dec., 831.)

553. A deputy marshal is not entitled, under section 829, Revised Statutes, to mileage for travel to attend a hearing before a United States commissioner, such commissioner not being a court. (7 Comp. Dec., 242; 15 Comp. MS. Dec., 608.)

554. Attention is called to section 849, Revised Statutes, which prohibits the payment of witness fees to a deputy for attending before a commissioner where he is officiating.

555. Before making payment to a deputy on account of fees as a witness the marshal must ascertain whether the deputy officiated before the commissioner at the time and place for which witness fees are claimed.

556. When a field deputy charges for attendance in a case in which he did not make the arrest, reference should be made to the page of the account of the deputy who did make the arrest.

FEES FOR COMMITTING AND DISCHARGING PRISONERS.

557. *For every commitment or discharge of a prisoner, fifty cents.* (Par. 19, sec. 829.)

558. A field deputy is not entitled to any fee as for a commitment unless the prisoner was actually committed to a jail or a penitentiary on a duly issued writ of commitment.

559. A field deputy is not entitled to a fee for discharging a prisoner unless the prisoner was at the time actually in the custody of the deputy.

560. A United States commissioner is not authorized to issue a second final commitment, and a deputy marshal is not entitled to compensation for serving such a commitment. (19 Comp. MS. Dec., 544.)

561. When a marshal having custody of a prisoner lodges him with a jailer or other person without a mittimus or other warrant of commitment, he is not entitled to a fee as for a commitment. (2 Comp. Dec., 655.)

562. A defendant who gives bond for his appearance for a hearing before a commissioner, with condition that he shall not depart without leave, does not, when he appears at the hearing and is dismissed by the commissioner, come again into the custody of the marshal so as to entitle that officer to a fee for discharging him. (2 Comp. Dec., 550; *id.*, 603.)

563. A defendant who gives bond for his appearance for a hearing before a commissioner does come again into the custody of the marshal upon being held for court, and that officer is entitled to the fee for discharging him upon bail. (2 Comp. Dec., 550.)

564. When a commitment fee is charged the account must show the date and place of the commitment, and whether or not the prisoner was committed on a duly issued writ of commitment, naming the officer who issued it.

565. When a fee for discharging a prisoner is charged the account must show whether or not the prisoner was at the time actually in the custody of the deputy.

FEEES FOR SERVING SUBPŒNAS.

566. *For serving a writ of subpœna on a witness, fifty cents; and no further compensation shall be allowed for any copy, summons, or notice for a witness.* (Par. 5, sec. 829.)

567. The serving of a subpœna issued by a United States commissioner for a witness residing outside of the district of the commissioner is not authorized by law, and a deputy marshal is not entitled to compensation or mileage for such service. (8 Comp. Dec., 276.)

568. A circuit or district court is authorized to issue a subpœna for a witness outside of the district of a United States commissioner to appear before him. (9 Comp. Dec., 86.)

569. A deputy marshal is not entitled to compensation for serving a subpœna where the subpœna was neither delivered to the witness nor read to him. (9 Comp. Dec., 86.)

570. Sending a writ of subpœna to a witness by mail is not "serving" the writ within the meaning of section 829, Revised Statutes, and a field deputy marshal is not entitled to compensation therefor, except in civil causes, other than equity and admiralty causes, where such practice is authorized by the law of the State within which the circuit or district court of the United States is held. (5 Comp. Dec., 210.)

571. Informing a person by telephone that he has been summoned to appear as a witness is not personal service of the subpœna, and a deputy marshal is not entitled to compensation for such service. (8 Comp. Dec., 203.)

572. Section 877 of the Revised Statutes provides that—

Witnesses who are required to attend any term of a circuit or district court on the part of the United States shall be subpœnaed to attend to testify generally on their behalf, and not to depart the court without leave thereof, or of the district attorney; and under such process they shall appear before the grand or petit jury, or both, as they may be required by the court or district attorney.

573. Where the same person is a witness in two or more cases at any term of court the practice of issuing and serving upon him a separate subpœna in each case is contrary to this provision of law.

574. It is the practice not to allow a field deputy a fee for the service of a subpoena upon himself.

575. When a warrant of arrest is served and the witnesses in the case can be served on the same trip it is the duty of the deputy to do so. Mileage for the additional travel to serve the subpoenas will be allowed. But the deputy can not charge mileage going to serve the warrant and actual expenses in lieu of mileage in the service of the subpoenas when served on the same trip. When the subpoenas are served on an entirely separate trip the deputy may elect to receive actual expenses in lieu of mileage.

576. When a warrant of arrest and a subpoena are served in a case by the same officer the charges for the service of the subpoena should be entered on the bottom of the page upon which service of the warrant is charged, the date of service on each witness being given.

577. Form 55 should be used in charging the fees earned and expenses incurred in the service of court subpoenas on behalf of the United States.

578. The account must show when, by whom, and where the subpoenas were issued, and when and where received by the deputy.

579. The date of each item of service and expense should be given, together with the names of the witnesses, the place of service (by giving the county and the distance and direction from the nearest post-office), and the number of miles traveled in going to serve. The account should show the points between which travel was made and the route, if two or more routes were available.

580. The names of the witnesses should be entered in the order of service.

581. When subpoenas are served on Government officials they should be notified that they are entitled to actual expenses only, and that they should obtain receipts for lodging and subsistence and for team hire.

FEES FOR SERVING VENIRES.

582. *For serving venires and summoning every twelve men as grand or petit jurors, four dollars, or thirty-three and one-third cents each. In States where, by the laws thereof, jurors are drawn by lot, by constables, or other officers of corporate places, the marshal shall receive, for each jury, two dollars for the use of the officers employed in drawing and summoning the jurors and returning each venire, and two dollars for his own services in distributing the venires. But the fees for distributing and serving venires, drawing and summoning jurors by township officers, including the mileage chargeable by the marshal for each service, shall not at any court exceed fifty dollars. (Par. 3, sec. 829.)*

583. The total amount of the fees and mileage for serving writs of venire facias for any one term of court must not exceed \$50. This limit applies to double as well as single fee districts. Where actual expenses in lieu of mileage are charged, such expenses are not considered in limiting the fees to \$50.

584. Form 34 should be used on which to charge fees earned and expenses incurred in the service of writs of venire.

585. The account should show whether for the grand or petit jury, for what term of court and at what place, when issued, when returnable, and where and when received.

586. The date of each item of service and expense should be given, together with the names of the persons served, the place of service (by giving the county and the distance and direction from the nearest post-office), and the number of miles traveled in going to serve.

587. The names should be entered in the order of service, and the account should show the route traveled from place to place.

588. The names of grand and petit jurors should be entered on separate sheets, and when served on the same trip the order of service should be indicated by numbering each juror in the order of service.

FEES FOR SERVING WRITS OF POSSESSION, ETC.

589. *For serving a writ of possession, partition, execution, or any final process, the same mileage as is allowed for the service of any other writ, and for making the service, seizing or levying on property, advertising and disposing of the same by sale, set-off, or otherwise according to law receiving and paying over the money, the same fees and poundage as are or shall be allowed for similar services to the sheriffs of the States, respectively, in which the service is rendered. (Par. 6, sec. 829.)*

590. A field deputy marshal who is allowed by section 11 of the act of May 28, 1896, as his compensation, three-fourths of the fees provided by law for the services rendered by him, is entitled to his proportion of the fee provided by the sixth clause of section 829, Revised Statutes, when he performs the services therein specified by collecting and paying over the sum realized on a writ of execution. (4 Comp. Dec., 108.)

591. The collection of money from a defendant by a deputy marshal in satisfaction of a writ of execution constitutes service of the writ, although no property was seized or sold, and the deputy is entitled to mileage for travel to perform such service. (5 Comp. Dec., 220.)

592. A field deputy marshal is not entitled to any allowance, either as mileage or actual expenses in lieu thereof, for an unsuccessful endeavor to serve a writ of execution. (3 Comp. Dec., 147.)

See "Fees and expenses in civil cases," page 88.

FEES AND EXPENSES IN ADMIRALTY CASES.

593. *For every proclamation in admiralty, thirty cents. (Par. 12, sec. 829.)*

594. *For serving an attachment in rem or a libel in admiralty, two dollars. (Par. 13, sec. 829.)*

595. *For the necessary expenses of keeping boats, vessels, or other property attached or libeled in admiralty, not exceeding two dollars and fifty cents a day. (Par. 14, sec. 829.)*

596. *When the debt or claim in admiralty is settled by the parties without a sale of the property, the marshal shall be entitled to a commission of one per centum on the first five hundred dollars of the claim or decree, and one-half of one per centum on the excess of any sum thereof over five hundred dollars: Provided, That, when the value of the property is less than the claim, such commission shall be allowed only on the appraised value thereof. (Par. 15, sec. 829.)*

597. *For sale of vessels or other property under process in admiralty, or under the order of a court of admiralty, and for receiving and paying over the money, two and one-half per centum on any sum under five hundred dollars, and one and one-quarter per centum on the excess of any sum over five hundred dollars.* (Par. 16, sec. 829.)

598. Instructions as to mileage and actual expenses in lieu of mileage will be found under appropriate headings elsewhere.

599. A State fee bill does not govern fees in admiralty cases. (See Comp. Dec. to Mar. Airy, Aug. 9, 1899.)

600. Where a rule or practice of the court in admiralty cases requires the issuing of a writ for the release of an attached vessel, a field deputy marshal is entitled to the usual fee for serving such writ. (4 Comp. Dec., 369.)

601. Under paragraph 14 of section 829, Revised Statutes, allowing a marshal \$2.50 a day for the necessary expenses of keeping boats, vessels, and other property attached or libeled in admiralty, credit can not be allowed for \$2.50 for a keeper by day and \$2.50 for a keeper by night. The marshal is limited to \$2.50 for each day of twenty-four hours for the hire of keepers. (1 Comp. Dec., 309.)

602. Where a marshal incurs expenses in keeping and guarding vessels in excess of the limit fixed for such expenses by section 829, Revised Statutes, the excess is as much an extraordinary expense, allowable under section 846, in the discretion of the President, as though no provision therefor had been made by law. (1 Comp. Dec., 341.)

603. The last two preceding paragraphs are not applicable to expenses paid by marshals to persons other than their deputies for keeping property in cases in which the United States is not a party. (See 6 Comp. Dec., 827.)

604. A bill of sale of a vessel is a deed within the meaning of the provision in section 829, Revised Statutes, which fixes a fee of \$5 "for drawing and executing a deed." (5 Comp. Dec., 759.)

See "Fees and expenses in civil cases," page 88.

EXPENSES OF TRANSPORTING CONVICTS TO PRISON OR PENITENTIARY OUTSIDE OF STATE OR TERRITORY.

605. *For transporting criminals convicted of a crime in any district or Territory where there is no penitentiary available for the confinement of convicts of the United States, to a prison in another district or Territory designated by the Attorney-General, the reasonable actual expenses of transportation of the criminals, the marshal, and the guards, and the necessary subsistence and hire.* (Par. 21, sec. 829.)

606. When a field deputy transports convicts to a prison or penitentiary outside of the State or Territory in which conviction occurred he is not entitled to mileage at the rate of 10 cents per mile, as in transporting prisoners within the State or Territory. He is entitled to the reasonable actual expenses of transporting himself, prisoners, and necessary guards, including actual necessary expenses of lodging and subsistence and necessary guard hire.

607. The guards employed should be paid not exceeding \$2 per day each for the time actually and necessarily employed.

608. A marshal who removes a prisoner adjudged insane before trial to the Government Hospital for the Insane, under instructions of the Attorney-General, is not entitled to the fee of 10 cents a mile allowed by section 829, Revised Statutes, for transporting criminals, but only to reimbursement for his actual expenses. (3 Comp. Dec., 151.)

609. The account of a field deputy for expenses incurred in transporting convicts to a prison or penitentiary outside of the State or Territory in which conviction occurred should be made out on Form 6. The instructions given on page 112 of this book should be carefully followed. Such account should constitute a part of his regular quarterly account.

COMPENSATION FOR KEEPING PERSONAL PROPERTY.

610. *For the keeping of personal property attached on mesne process, such compensation as the court, on petition setting forth the facts under oath, may allow.* (Par. 2, sec. 829.)

611. In cases in which the United States is not a party, expenses paid by marshals to other than their deputies for keeping property attached on mesne process are not to be charged by them in their accounts, nor are the amounts collected therefor to be paid to the clerk of the court, whether allowed by the court under paragraph 2 or 14 of section 829, Revised Statutes. (6 Comp. Dec., 827.)

612. The compensation provided by section 829, Revised Statutes, for the keeping by marshals of personal property attached on mesne process, to be allowed by the court on petition, is in the nature of a fee, within the meaning of the act of May 28, 1896, and a field deputy who has performed the service is entitled to three-fourths of the amount so allowed, exclusive of expenses. (4 Comp. Dec., 646.)

613. A marshal is not authorized to reimburse a field deputy for expenses incurred in caring for and preserving property seized under a writ of replevin, there being no provision of law for the payment of such expenses. (Comp. to Cooper, E. Ark., May 26, 1898.)

614. When compensation for keeping property attached on mesne process is allowed by the court, a copy of the petition and order of the court must accompany the account.

See "Earnings from individuals and corporations," page 77.

EXPENSE ACCOUNTS OF MARSHALS AND OFFICE DEPUTIES.

GENERAL INSTRUCTIONS.

615. The expense accounts of marshals and office deputies should be rendered quarterly and in duplicate. They should be paid by the marshal from the appropriation "Salaries, fees, and expenses of marshals, United States courts," and included as vouchers in his account under that appropriation.

616. The originals should be transmitted to this Department with the marshal's original account, the duplicates being placed with the marshal's duplicate account to be filed in the clerk's office.

617. These accounts must show, in addition to the expenses incurred under sections 10 and 12 of the act of May 28, 1896, *all constructive fees of marshals and office deputies (excluding commissions on disbursements and mileage and per diems for attending court), entered as they would be charged against the United States if the services had been performed by field deputies.*

618. Commissions on disbursements and mileage and per diems for attending court shall not be reported.

619. Each item of expense for which credit is claimed must represent money actually paid.

620. The fees and expenses of one case only should be entered on any one page. Only one side or page of each sheet should be used.

621. The pages should be arranged according to the dates on which the fees were earned or the expenses incurred and numbered consecutively.

622. The name of the marshal or deputy rendering the account should appear at the top of each page and the marshal's docket number should be given at the bottom.

623. The date of each item of service and expense should be given in the column on the left of the page.

624. When an item is supported by a receipt, the number of the receipt should be given.

625. Separate footings of the fees reported and the expenses charged on each page should be made and the amounts carried to the proper columns on the abstract. When the mileage on a trip is less than the expenses it should not be carried into the footing nor to the abstract.

626. The receipts belonging to each page should be numbered and arranged chronologically and attached to the page to which they relate.

627. The abstract should be placed before the first page of the account, and the affidavit and receipt of the marshal or deputy should follow the last page.

628. The account should be placed within the covers provided for that purpose (Form 320) and neatly fastened.

629. When payment is made by a single check, the date and number of the check and the name of the depository on which drawn should be given at the bottom of the receipt. When by several checks, a list of the checks, showing the dates and numbers and the name of the depository on which drawn, should be appended.

630. The aggregate amount of the checks should correspond exactly with the amount receipted for by the marshal or deputy.

ABSTRACT OF EXPENSE ACCOUNT OF MARSHAL OR OFFICE DEPUTY.

631. An abstract of the expense account of a marshal or office deputy should be made on Amended Form 21 and should be placed before the first page of the account. It should show at the top the name of the marshal or deputy and the quarter for which the account is rendered. The number of the page, the title of the case, and the fees reported and expenses charged on each page should be entered in the proper places on the abstract. The entries should be made in the order in which the pages of the account are numbered.

632. The first two columns of the abstract should not be used in making an abstract of the expense account of a marshal or office deputy.

633. Expenses of travel and subsistence and guard hire payable by the United States should be entered in the third column.

634. The column headed "Other expenses payable by U. S." should show all expenses payable by the United States other than expenses of travel and subsistence and guard hire, as expenses of keeping personal property, etc., actually paid by the deputy.

635. The column headed "Amount due deputy" should not be used for each entry on the abstract. It should be used only for the sum of the footings of the two preceding columns.

636. The column "All gross fees" is for statistical purposes only. It should include all fees of a marshal or an office deputy for serving process, together with mileage when the latter equals or exceeds the expenses of a trip. But when the expenses of a trip exceed the mileage, the expenses should be added to the fees for serving the process and included in this column instead of the mileage. In other words, where the expenses exceed the mileage they are treated as fees, so far as this column is concerned. Commissions on disbursements and mileage and per diems for attending court should not be included in this column.

637. All amounts earned from individuals and corporations should appear in the seventh column, the earnings in each case to be entered separately. The amount collected in each case and paid to the clerk of the court for deposit should be shown in the next column, and the last column should show the number of the clerk's receipt therefor.

AFFIDAVIT AND RECEIPT.

638. Form 69 should be used for the affidavit of a marshal or office deputy to his account and as a receipt for the amount paid him by the marshal. The affidavit may be executed before anyone authorized to administer oaths generally. If before a notary public or other officer having a seal, except a clerk or deputy clerk of a United States court,

he should always affix his seal. A notary public should, in addition, state when his commission will expire.

639. An office deputy marshal who is required by section 13 of the act of May 28, 1896, to present his account for actual expenses properly sworn to, can not charge the expense of so proving the account to the Government. (3 Comp. Dec., 430.)

RECEIPTS.

640. Form 13 should be used for receipts, except when the items are so numerous that they can not be shown on the form. Hotel bills should be made out on the billheads of the hotel.

641. Two receipts should always be taken, one to be marked original and the other duplicate. The original should be attached to the original account, the duplicate to the duplicate account. Care should be taken not to send duplicate receipts with the original account, as it causes much needless correspondence and delay in the settlement of accounts.

642. Each receipt in a case should be numbered according to the time when the expense was incurred. The place, the date, the name of the marshal or deputy, the amount, and the title of the case should be shown. The receipt should be so stated as to indicate the exact nature of the expense, and whether it was incurred for a marshal, deputy, prisoner, or guard.

643. Receipts for lodging and subsistence of a marshal or office deputy must be fully itemized; otherwise it can not be ascertained whether the charge is in excess of the maximum allowed by law. Show separately each meal and lodging, and the date and cost of each.

644. Receipts for subsistence of a marshal or deputy should be separate from those for subsistence of prisoners and guards.

645. Receipts should be entirely filled out before they are presented to the payee for signature, and should show the exact amount paid. Receipts "in full" or for "the above amount" are improper.

646. Receipts should be signed in ink or with indelible pencil by the person to whom the payment was made. If the person is unable to write, he should sign by cross mark, which should be witnessed by some one other than the marshal or deputy.

647. Marshals and office deputies are required to furnish receipts for the following expenses: Lodging and subsistence of marshal, deputy, prisoners, or team; single meals for prisoners; single night's lodging for marshal or deputy; team hire; single feed for team, and stage fare.

648. Receipts are not required for single meals for marshal or office deputy; railroad fare; Pullman fare; steamboat fare; stateroom; street-car fare; portorage; meals from provisions carried, nor for horse or team furnished by marshal or deputy.

649. A marshal or his deputy is not required, under the practice of the accounting officers, to furnish receipts for railroad fare. (3 Comp. Dec., 156.)

650. In cases between individuals and corporations receipts should be furnished the same as in cases in which the United States is a party.

651. No signs of alteration or erasure should appear upon a receipt, but if they do appear they should always be fully explained.

EXPENSES WHILE ABSENT FROM OFFICIAL RESIDENCE ON OFFICIAL BUSINESS OTHER THAN THE SERVICE OF PROCESS.

652. Form 192 should be used by marshals and office deputies in charging expenses while absent from their official residence on official business other than the service of process. It should not be used for expenses incurred while transporting prisoners. Form 193 is a continuation sheet of Form 192.

653. The account must show the object of the trip.

654. All expenses must be fully itemized, and supported by receipts as required on page 109.

655. When railroad fare is charged, the points from and to which travel is made and the name of the railroad should be given. When it is practicable to purchase a round-trip ticket for less than the straight fare both ways, the marshal or deputy should do so.

656. When expenses of lodging and subsistence are charged, the account must show the first and last meal or lodging.

657. The items of expense for a day begin with breakfast and end with lodging. For example: (1) breakfast; (2) dinner (or lunch); (3) supper (or dinner); (4) lodging.

658. Ordinarily the cost of lodging incurred by an employee while traveling will be regarded as pertaining to the day in which the night for which the lodging was procured began. (7 Comp. Dec., 338.)

659. In the case of a marshal the expenses of lodging and subsistence are limited by law to \$4 for each calendar day (that is, a day commencing with breakfast and ending with lodging). In the case of an office deputy the limit is \$2 for each calendar day. Each calendar day is considered separately, and the charges for several days can not be averaged in the account of a marshal or office deputy. (See 4 Comp. Dec., 418.)

660. If the marshal or deputy delays at a point upon private business, the resulting expenses must be borne by himself.

661. Tips to waiters will not be allowed.

662. Reasonable portorage, not exceeding 25 cents per day when traveling by railroad, will be allowed.

EXPENSES IN THE SERVICE OF CRIMINAL PROCESS.

663. Form 194 should be used by marshals and office deputies in reporting their fees and charging expenses in the service of criminal process and in transporting prisoners within the State or Territory.

664. The account should show the title of the case; the offense charged (by briefly stating the nature of the offense and referring to the section of the statutes violated); when, by whom, and where the warrant was issued; by whom the complaint was made; when and where received by the marshal or deputy; date when executed and place of execution (by giving the county and the distance and direction from the nearest post-office); date and place of return, and before what officer.

665. All fees should be reported as they would be charged against the United States if the services were rendered by a field deputy.

666. When the mileage equals or exceeds the expenses on the trip, it should be reported and carried with the other fees to the proper column on the abstract. When the mileage is less than the expenses, it should not be reported, but the number of miles traveled in going to serve and in transporting prisoners should always be given.

EXPENSES OF TRANSPORTING PRISONERS.

667. The expenses of marshals and office deputies in transporting prisoners within the State or Territory or to another district on a writ of removal should be charged on Form 194.

668. Mileage should be reported as directed in paragraph 666.

669. The actual necessary expenses of feeding prisoners while in the custody of a marshal or deputy should be paid by him and included in his account. A marshal or deputy should never include in his expense account the expense of subsisting prisoners while in jail, as the expense is then payable from the appropriation "Support of prisoners."

670. Expenses of lodging and subsistence of a marshal or deputy should be charged separately from those of prisoners or guards, so that the Department may determine whether the marshal or deputy has exceeded the maximum allowed by law for such expenses.

671. When actually necessary for the safe transportation of prisoners, guards may be employed and paid not exceeding \$2 per day for the time actually and necessarily employed. Form 30 should be used as a certificate of the guard and a receipt for the amount paid him.

EXPENSES IN THE SERVICE OF CIVIL PROCESS.

672. Fees and expenses of marshals and office deputies in the service of civil process should be charged on Form 195.

673. The account should show the title of the case; the cause of

action or the nature of the case; the name of the writ or writs; when, by whom, and where issued; when and where received by the marshal or deputy; when and where returnable; when, on whom, and where executed, and the number of miles traveled going to serve.

674. In cases in which the United States is a party, it should be shown whether each item of service was on behalf of the United States or the other party.

675. Mileage in civil cases is governed by section 829, Revised Statutes of the United States, and not by the fee bill of any State.

676. The same receipts should be furnished in cases between individuals and corporations as are required in cases in which the United States is a party.

677. Fees should be reported the same as in criminal cases.

EXPENSES OF TRANSPORTING CONVICTS TO PRISON OR PENITENTIARY OUTSIDE OF STATE OR TERRITORY.

678. Form 6 should be used by marshals and their deputies in stating expenses incurred by them in transporting convicts to a prison or penitentiary outside of the State or Territory in which conviction occurred; in transporting persons adjudged insane to the Government Hospital for the Insane and in returning such persons when cured, and in transporting persons sentenced to a reform school outside of the State or Territory.

679. The name of the marshal or deputy in charge, the names of the prisoners, and from and to what place transported must be given.

680. The expenses must be itemized, the date, place, and amount of each expenditure being stated in full as it was incurred. The expenses of lodging and subsistence of the deputy must be entered separately from those of prisoners and guards.

681. When lunch is purchased at the headquarters of the marshal or deputy in charge to be eaten on the trip, that fact should be stated in the account.

682. When any delays occur in the transportation, thereby causing additional expense, a statement explaining the reason in full must be added to the body of the account.

683. When other than the most direct route is traveled, either in going or returning, the reason why the indirect route was taken must be fully explained.

684. Fee for committing should not be charged on Form 6.

685. The receipt of each guard for the money paid him for services, stating the number of days employed, his residence, and his regular business or employment, must be attached to the account. Form 30 may be used. The receipt of the prison authorities for the bodies of the prisoners delivered should also be furnished.

686. This expense account should be sworn to by the marshal or deputy in charge and should constitute a part of his regular quarterly account.

LAWS AND DECISIONS RELATING TO EXPENSES OF MARSHALS AND OFFICE DEPUTIES.

687. Section 12, act of May 28, 1896 (29 Stat. L., 183):

That the marshal, when attending court at any place other than his official residence, and when engaged in the service or attempted service of any process, writ, or subpoena, and when otherwise necessarily absent from his official residence on official business, shall be allowed his necessary expenses for lodging and subsistence, not exceeding four dollars per day and his actual necessary traveling expenses. He shall also be allowed the actual necessary expenses in transporting prisoners, including necessary guard hire.

688. Section 10, act of May 28, 1896 (29 Stat. L., 182):

When any of such office deputies is engaged in the service or attempted service of any writ, process, subpoena, or other order of the court, or when necessarily absent from the place of his regular employment, on official business, he shall be allowed his actual traveling expenses only, and his necessary and actual expenses for lodging and subsistence, not to exceed two dollars per day, and the necessary actual expenses in transporting prisoners, including necessary guard hire; and he shall make and render accounts thereof as hereinafter provided.

689. The fees and allowances provided in section 829, Revised Statutes, no longer relate to the compensation of a marshal or his office deputy, and when either of them is engaged in endeavoring to make an arrest, he is entitled to his actual expenses under the act of May 28, 1896, within the limits therein prescribed. (3 Comp. Dec., 156.)

690. The limit of \$2 per day for the lodging and subsistence expenses of an office deputy marshal applies when he is absent from the place of his regular employment and engaged in transporting prisoners, either within or without his district, as well as when he is absent on any other official business. (4 Comp. Dec., 418.)

691. An expense for a berth in a sleeping car will be regarded as a traveling expense, and not as expense for lodging. (3 Comp. Dec., 386.)

692. An office deputy marshal is not "necessarily absent from the place of his regular employment on official business," and not entitled to be reimbursed for his actual expenses when he travels to serve a writ issued from a court in another district, if the writ be one which does not run out of the district in which it issued. (4 Comp. Dec., 642.)

693. An office deputy marshal who was directed by an assistant district attorney to attend an examination before a United States commissioner of persons arrested by State officers was "necessarily absent from the place of his regular employment on official business," within the meaning of the act of May 28, 1896, and he is entitled to reimbursement for the actual expenses incurred by him therein. (7 Comp. Dec., 266.)

694. An office deputy marshal is not entitled to compensation for attending an examination before a United States commissioner, unless his attendance was necessary. (14 Comp. let. Dec., 1214.)

695. The provision in section 5 of the act of July 20, 1892, that "the United States shall not be liable for any costs" incurred in behalf of poor litigants does not

apply to actual traveling expenses of office deputy marshals incurred in serving process for such litigants. (7 Comp. Dec., 560.)

696. Expenses incurred by an office deputy marshal in collecting evidence of violations of law are not payable from the appropriation for salaries, fees, and expenses of marshals. (5 Comp. Dec., 266.)

697. An office deputy marshal who failed to take any precaution to prevent the escape of a prisoner in his custody, who by reason of such want of precaution escaped, is not entitled to reimbursement of the expenses incurred by him in transporting the prisoner. (6 Comp. Dec., 510.)

698. An office deputy marshal who takes a prisoner before a United States commissioner farther from the place of arrest than the commissioner nearest thereto is entitled to such expenses only as would have been incurred by him had he taken the prisoner before the nearest commissioner, as required by the act of August 18, 1894. (5 Comp. Dec., 351.)

ACCOUNTS OF OFFICE EXPENSES.

GENERAL INSTRUCTIONS.

699. Section 14 of the act of May 28, 1896, provides that the necessary office expenses of marshals shall be allowed when authorized by the Attorney-General. Marshals should therefore write to the Department for the necessary authority before incurring any such expense.

700. Applications for authority to incur office expenses must state the character of the expense, the facts giving rise to the necessity therefor, and if the total amount involved is in excess of \$10 must be accompanied by competitive bids.

701. Accounts of office expenses other than telegrams and long-distance telephone messages should be rendered on Form 324.

702. The expenses should be fully itemized and the date when each item was incurred should be given.

703. Marshals should be careful to refer to the letter authorizing the expense, giving the date thereof, and thus avoid unnecessary correspondence and delay in the settlement of their accounts.

704. All payments should be made by check, and the account should show the date and number of the check and the name of the depository on which drawn.

TELEGRAMS.

705. The use of the telegraph by marshals and their deputies is permissible only concerning matters of importance that admit of no delay. The mail must be used in communicating with the Department of Justice, with deputies in the field, and about the business of the courts whenever practicable.

706. Messages asking for or about an advance of funds, or about the condition of an appropriation, or the accounts of the marshal, or the failure to receive a draft, should be sent only in cases of emergency.

The marshal must make requisitions for funds as directed in paragraphs 111 to 113, early enough to avoid the use of the telegraph as far as practicable.

707. All messages must be paid for at the rates fixed by the Postmaster-General, as given on page 246 of these instructions. All messages sent on official business should be marked "Official business."

708. Telegrams making application for leaves of absence, or extension of leave, or of inquiry whether leave has been granted, or the replies made thereto by telegraph, are not public dispatches, and payment therefor is not authorized. (6 Comp. Dec., 422.)

709. In counting the words of a telegram exclude the date and place from which sent. The name of a city, town, village, State, Territory, or province is counted as one word. For example, New York.

710. Telegrams must be made as brief as possible without obscurity. This applies equally as well to a message from an officer to an employee under his supervision as to a message from such officer to the Department.

711. The cost of messages sent to the Department of Justice should be paid by the sender. (See Department circular of February 19, 1897.)

712. Telegraph accounts should be rendered on Form 177, and should constitute a part of the marshal's quarterly account of office expenses.

713. Copies of telegrams must be furnished. Each copy should be numbered according to the date of the message, the numbers to correspond with the numbers on the account.

714. In an exceptional case, where a telegram is of such a nature that it would be prejudicial to the public interests to have it exposed, its production may be waived, provided the head of the department or bureau not under any department will certify to its confidential character, and to all other facts necessary to a proper settlement of the claim or account. * * * (4 Comp. Dec., 233.)

715. The account should show the number of the message, its date, by whom sent, from what place to what place, to whom sent, number of words, and amount paid.

716. When telegrams are sent over more than one line to reach their destination, it must be so stated, and the names of such lines must be given, together with the cost over each.

717. When a message is sent part of the way by telephone and charge is made therefor, the fact must be stated and the additional cost given.

718. A certificate must be attached to the account, setting forth that the telegrams were actually sent, as stated, on official business and at Government rates, and that they were absolutely necessary in the proper transaction of the public business.

719. The account must be properly receipted.

LONG-DISTANCE TELEPHONE MESSAGES.

720. Accounts of long distance or out-of-town telephone messages should be made out on Form 178 and should constitute a part of the marshal's quarterly account of office expenses.

721. Each message should be entered separately in the order of its date, and the date, by whom sent, from and to what place, to whom sent, and the amount paid should be given.

722. The marshal should certify that the messages were actually sent, as stated, on official business, and were absolutely necessary in the proper transaction of the public business.

723. The account should be properly receipted.

FEES OF JURORS.**GENERAL INSTRUCTIONS.**

724. Section 855, Revised Statutes, provides that—

In cases where the United States are parties, the marshal shall, on the order of the court, to be entered on its minutes, pay to the jurors and witnesses all fees to which they appear by such order to be entitled, which sum shall be allowed him at the Treasury in his accounts.

725. Section 846, Revised Statutes, provides:

That no accounts of fees or costs paid to any witness or juror, upon the order of any judge or commissioner, shall be so reexamined as to charge any marshal for an erroneous taxation of such fees or costs.

726. While section 846, Revised Statutes, protects a marshal from disallowances of amounts paid by him to jurors in obedience to orders of a court, although the taxation of such fees may have been erroneous, still it is the duty of a marshal to scan orders closely, and if any error is discovered as to per diems or mileage ordered to be paid to a juror to call the same to the attention of the district attorney that he may take action to secure correction.

QUALIFICATIONS OF JURORS.

727. By section 800, Revised Statutes, it is provided that "jurors to serve in the courts of the United States, in each State respectively, shall have the same qualifications, subject to the provisions hereinafter contained, and be entitled to the same exemptions, as jurors of the highest court of law in such State may have and be entitled to at the time when such jurors for service in the courts of the United States are summoned."

728. Section 812, Revised Statutes, is as follows:

No person shall be summoned as a juror in any circuit or district court more than once in two years, and it shall be sufficient cause of challenge to any juror called to

be sworn in any cause that he has been summoned and attended said court as a juror at any term of said court held within two years prior to the time of such challenge.

729. By a provision of the act of June 30, 1879 (21 Stat. L., 44), no person is to serve as a petit juror more than one term in any one year.

730. Under section 822, Revised Statutes—

No person shall be a grand or petit juror in any court of the United States, upon any inquiry, hearing, or trial of any suit, proceeding, or prosecution based upon or arising under the provisions of title "Civil Rights" and of title "Crimes," for enforcing the provisions of the fourteenth amendment to the Constitution, who is, in the judgment of the court, in complicity with any combination or conspiracy in said titles set forth; and every grand and petit juror shall, before entering upon any such inquiry, hearing, or trial, take and subscribe an oath, in open court, that he has never, directly or indirectly, counseled, advised, or voluntarily aided any such combination or conspiracy.

731. It is provided by section 1671, Revised Statutes, that "All artificers and workmen employed in the armories and arsenals of the United States shall be exempted, during their time of service, from service as jurors in any court."

732. An act approved June 30, 1879 (21 Stat. L., 44), provides:

That no citizen possessing all other qualifications which are or may be prescribed by law shall be disqualified for service as grand or petit juror in any court of the United States on account of race, color, or previous condition of servitude.

733. There are special provisions of law relating to the qualifications of jurors in certain districts. As to the northern district of Ohio, see act of June 8, 1878 (20 Stat. L., 101); as to the southern district of Ohio, see act of February 4, 1880 (21 Stat. L., 63); as to the southern district of Georgia, see act of January 29, 1880 (21 Stat. L., 62); as to the eastern district of Tennessee, see act of June 11, 1880 (21 Stat. L., 751); as to the eastern division of the southern district of Mississippi, see act of July 18, 1894 (28 Stat. L., 114); as to the Indian Territory, see act of June 7, 1897 (30 Stat. L., 62); and as to the District of Columbia, see section 208 of the District Code.

METHOD OF SELECTING AND DRAWING JURORS.

734. Under an act approved June 30, 1879 (21 Stat. L., 43), all "jurors, grand and petit, including those summoned during the session of the court, shall be publicly drawn from a box containing, at the time of each drawing, the names of not less than three hundred persons, possessing the qualifications prescribed in section eight hundred of the Revised Statutes, which names shall have been placed therein by the clerk of such court and a commissioner, to be appointed by the judge thereof, which commissioner shall be a citizen of good standing, residing in the district in which such court is held, and a

well-known member of the principal political party in the district in which the court is held opposing that to which the clerk may belong, the clerk and said commissioner each to place one name in said box alternately, without reference to party affiliations, until the whole number required shall be placed therein.

735. "But nothing herein contained shall be construed to prevent any judge from ordering the names of jurors to be drawn from the boxes used by the State authorities in selecting jurors in the highest courts of the State * * *."

736. The above act was amended by the act of August 8, 1888 (25 Stat. L., 386), "so that whenever any circuit and district court of the United States shall be held at the same time and place they shall be authorized and required, if the business of the courts will permit, to use interchangeably the juries in either court drawn according to the provisions of said act."

737. Section 802, Revised Statutes:

Jurors shall be returned from such parts of the district, from time to time, as the court shall direct, so as to be most favorable to an impartial trial, and so as not to incur an unnecessary expense, or unduly to burden the citizens of any part of the district with such services.

738. Section 804, Revised Statutes:

When, from challenges, or otherwise, there is not a petit jury to determine any civil or criminal cause, the marshal or his deputy shall, by order of the court in which such defect of jurors happens, return jurymen from the bystanders sufficient to complete the panel; and when the marshal or his deputy is disqualified as aforesaid, jurors may be so returned by such disinterested person as the court may appoint, and such person shall be sworn, as provided in the preceding section.

739. Section 805, Revised Statutes:

When special juries are ordered in any circuit court, they shall be returned by the marshal in the same manner and form as is required in such cases by the laws of the several States.

740. Section 808, Revised Statutes:

Every grand jury empaneled before any district or circuit court shall consist of not less than sixteen nor more than twenty-three persons. If of the persons summoned less than sixteen attend, they shall be placed on the grand jury, and the court shall order the marshal to summon, either immediately or for a day fixed, from the body of the district, and not from the bystanders, a sufficient number of persons to complete the grand jury. And whenever a challenge to a grand juror is allowed, and there are not in attendance other jurors sufficient to complete the grand jury, the court shall make a like order to the marshal to summon a sufficient number of persons for that purpose.

741. There are special provisions of law relating to the selection and drawing of juries in certain districts. As to the district of Vermont, see section 807, Revised Statutes; as to the several districts of Kentucky and Indiana, see section 815, Revised Statutes; as to the dis-

tricts of North Carolina, see section 816, Revised Statutes; as to the western district of the district of South Carolina, see section 817, Revised Statutes; as to the western district of Michigan, see act of June 19, 1878 (20 Stat. L., 175); as to the Indian Territory, see act of March 1, 1895 (28 Stat. L., 693); and as to the district of Columbia, see the Code of the District of Columbia.

PER DIEMS.

742. Under an act of Congress approved June 21, 1902, jurors are entitled to \$3 a day for actual attendance at any court or courts, and for the time necessarily occupied in going to and returning from the same.

743. Marshals are instructed not to pay per diems to jurors who reside at the place where court is held for days on which court is not in session and no service is rendered by them.

744. Under the act of August 1, 1888, providing for condemnation proceedings in the Federal courts, agreeably to the procedure in the State court, the jurors and witnesses may be paid the usual fees from the appropriations for expenses of United States courts, unless by the practice in the State court special compensation is payable for the services of the jury or witnesses, in which case such compensation would be payable from the appropriation for miscellaneous expenses of United States courts. (2 Comp. Dec., 377.)

MILEAGE.

745. Under section 852, Revised Statutes, jurors are entitled to five cents a mile for the distance necessarily traveled from their residence in going to and returning from court by the shortest practicable route.

746. An act approved August 3, 1892 (27 Stat. L., 347), provides:

That jurors and witnesses in the United States courts in the States of Wyoming, Montana, Washington, Oregon, California, Nevada, Idaho, and Colorado, and in the Territories of New Mexico, Arizona, and Utah, shall be entitled to and receive fifteen cents for each mile necessarily traveled over any stage line or by private conveyance and five cents for each mile over any railway in going to and returning from said courts: *Provided*, That no constructive or double mileage fees shall be allowed by reason of any person being summoned both as witness and juror * * *.

747. The number of miles for which travel is allowed should in all cases be the number of miles actually and necessarily traveled going from the place of residence of the juror to the place where he attended court, and returning, at 5 cents a mile, not one way at 10 cents.

748. The mileage of a juror should not be "estimated," nor should the statement of the juror be accepted as conclusive. All mileage should be verified, and for this purpose authority will be granted by the Department, upon application, for the purchase of the necessary maps from the Post-Office Department.

PAY ROLLS.

749. Form 1 should be used as the pay roll of jurors, except where jurors are allowed 15 cents a mile for travel by stage, when Form 29 should be used.

750. The names of the grand and petit jurors should be entered on separate rolls.

751. The residence of each juror should be given by stating the county and the post-office; or if a juror does not reside at a post office, by stating the county and the distance and direction from the nearest post-office.

752. The column headed "Dates for which paid" should contain all the dates for which a juror is paid, both for attendance and for the time consumed in traveling to and from court. The column headed "Dates of travel" should contain the dates for which a juror is paid for traveling to and from court.

753. Care should be taken that names as signed on the pay roll agree with the court's order to pay.

754. Signatures by cross marks on pay rolls must be attested, and by some person other than the marshal or his deputy.

755. Attention is invited to the following paragraph of Treasury Department Circular No. 22, dated February 11, 1899:

Payments made to jurors and witnesses on court pay rolls and witnesses on United States commissioners' pay rolls must be evidenced by the autograph signature, in the proper column, of each juror or witness to whom payment is made; and where payments are made by a check drawn to the order of each juror or witness, as prescribed in the regulations of the Department of Justice, the date and number of the check and the name of the depository on which drawn, must be stated on the pay roll opposite the name of the juror or witness to whose order such check was drawn, or be indorsed on the back of the pay roll, together with the name of the juror or witness.

756. When the name of a juror appears more than once on the pay roll for a term of court, cross references should be made.

757. When the names of the petit jurors at a term of court or the names of the grand jurors at a term of court are entered on more than one sheet of Form 1 or 29, the first sheet should be footed, the amount carried to the second sheet, and so on to the last sheet.

758. The sheets composing the roll must be fastened together at the upper left-hand corner.

759. Care must be taken to have the certificate of the clerk on the last sheet of the roll. The seal of the court is not necessary to the clerk's certificate, and no fee will be allowed therefor.

760. It is not necessary to forward with the accounts copies of orders to pay jurors, the certificate of the clerk being received as evidence that such orders were entered.

761. It is not necessary for the marshal to make affidavit to each pay roll, his affidavit to the account as a whole being sufficient.

FEES OF WITNESSES.**GENERAL INSTRUCTIONS.**

762. Section 855, Revised Statutes, provides that—

In cases where the United States are parties, the marshal shall, on the order of the court, to be entered on its minutes, pay to the jurors and witnesses all fees to which they appear by such order to be entitled, which sum shall be allowed him at the Treasury in his accounts.

763. Section 846 provides:

That no accounts of fees or costs paid to any witness or juror, upon the order of any judge or commissioner, shall be so reexamined as to charge any marshal for an erroneous taxation of such fees or costs.

764. While section 846, Revised Statutes, protects a marshal from disallowances of amounts paid by him to witnesses in obedience to orders of a court or commissioner, although the taxation of such fees may have been erroneous, still it is the duty of a marshal to scan such orders closely, and, if any error is discovered as to per diems or mileage ordered to be paid to a witness, to call the same to the attention of the district attorney that he may take action to secure correction.

PER DIEMS.

765. Under section 848, Revised Statutes, a witness is entitled to \$1.50 "for each day's attendance in court, or before any officer pursuant to law."

766. The same section also provides that—

When a witness is subpoenaed in more than one cause between the same parties, at the same court, only one travel fee and one per diem compensation shall be allowed for attendance. Both shall be taxed in the case first disposed of, after which the per diem attendance fee alone shall be taxed in the other cases in the order in which they are disposed of.

767. Marshals are instructed not to pay per diems to witnesses who reside at the place where court is held for days on which court is not in session and no service is rendered by them.

768. Care should be taken that no witness fees are paid to officers of the United States courts in violation of section 849, Revised Statutes, which provides that—

769. No officer of the United States courts, in any State or Territory, or in the District of Columbia, shall be entitled to witness fees for attending before any court or commissioner where he is officiating.

770. Witnesses are not, like jurors, entitled to receive pay for time occupied in going to and returning from court or examinations before United States commissioners.

MILEAGE.

771. Under section 848, Revised Statutes, a witness is entitled to "five cents a mile for going from his place of residence to the place of trial or hearing, and five cents a mile for returning."

772. An act approved August 3, 1892 (27 Stat. L., 347), provides:

That jurors and witnesses in the United States courts in the States of Wyoming, Montana, Washington, Oregon, California, Nevada, Idaho, and Colorado, and in the Territories of New Mexico, Arizona, and Utah, shall be entitled to and receive fifteen cents for each mile necessarily traveled over any stage line or by private conveyance and five cents for each mile over any railway in going to and returning from said courts: *Provided*, That no constructive or double mileage fees shall be allowed by reason of any person being summoned both as witness and juror, or as witness in two or more cases pending in the same court and triable at the same term thereof.

773. The Comptroller of the Treasury has decided (1 Comp. Dec., 43) that—

While the provision in the act of August 3, 1892, for mileage at 15 cents a mile for witnesses traveling by stage or private conveyance to attend a United States court does not apply to witnesses attending before a commissioner, yet, if the commissioner taxes the mileage at that rate and it is paid by the marshal, the accounts of the latter can not, under section 846, Revised Statutes, be so reexamined as to charge him with such erroneous taxation.

774. Marshals are, however, hereby directed not to make such payments to witnesses before commissioners. A favorable construction will not be put upon the action of any marshal who makes such payments.

775. The number of miles for which travel is paid should in no case exceed the number of miles necessarily traveled to the place where the witness attended court and in returning therefrom, at 5 cents a mile, not one way at 10 cents.

776. The mileage of a witness should not be "estimated," nor should the statement of the witness be accepted as conclusive. All mileage should be verified, and for this purpose authority will be granted by the Department, upon application, for the purchase of the necessary maps from the Post-Office Department.

ACTUAL EXPENSE WITNESSES.

777. Section 850, Revised Statutes, provides that—

When any clerk or other officer of the United States is sent away from his place of business as a witness for the Government, his necessary expenses, stated in items and sworn to, in going, returning, and attendance on the court, shall be audited and paid; but no mileage, or other compensation in addition to his salary, shall in any case be allowed.

778. No fees should be paid to clerks or other salaried employees of the United States who are sent away from their places of business as

witnesses for the Government, but they should receive their actual expenses. This does not, however, apply to officers who are compensated by fees, who are entitled to the ordinary compensation of witnesses.

779. Certain Government employees who receive allowances in lieu of expenses, as post-office inspectors, internal-revenue agents, special examiners of the Pension Office, and special agents of the Treasury Department, should not be paid their actual expenses when called as witnesses in cases in which they are employed by direction of their respective bureaus or departments.

780. The appropriation for examiners in the Bureau of Pensions makes more specific provision for the expenses of such examiners in attendance upon court as witnesses than is made by the appropriation for fees of witnesses in the United States courts, and is therefore exclusively applicable thereto. (4 Comp. Dec.; 649; 5 Comp. Dec., 2.)

781. The expenses which a deputy collector of internal revenue may properly charge in his account of actual expenses as a witness are *those only which are, after he is regularly subpoenaed, incurred in traveling to, attendance upon, and returning from the court or commissioner hearing the case.*

782. Marshals are requested to aid the Department in putting a stop to the practice of deputy collectors in charging, in such accounts, expenses other than those above enumerated. If it appears from the accounts of a marshal that a deputy collector has charged in his witness account, and has been paid, expenses incurred other than his legitimate expenses as a witness, the matter will be brought to the special attention of the Secretary of the Treasury.

783. Hereafter employees of the Post-Office Department will not include in their accounts of actual expenses, under section 850, Revised Statutes, any amounts paid to persons who act as substitutes. Provision is made by the act of Congress approved June 13, 1898 (30 Stat. L., 441), for payment of substitutes of employees absent from their duties as Government witnesses from the revenues of the Post-Office Department. (See Department letter of Oct. 24, 1898.)

784. Salaried officers and employees of the Government in rendering actual expense accounts under section 850, Revised Statutes, should use Department Form 2. They must itemize and swear to same, and furnish receipts for hotel and livery bills, stage fare, and all expenditures for which it is practicable to obtain receipts. The affidavits to accounts of this character must include the statement that the witness has not received and is not entitled by the regulations of the bureau or department in whose service he is or was employed to claim or receive and will not claim from such bureau or department any allowance whatever for those expenses.

785. These expenses must be passed upon and ordered paid by the court or commissioner the same as fees to other witnesses, and then entered on the regular pay roll and the receipt of the payee taken therefor.

786. The expenses of officers of light-house tenders while attending court as witnesses in a suit in which the United States was interested, there being no provision of law making it their duty to aid in the prosecution of such suit, are payable from the appropriation for fees of witnesses. (7 Comp. Dec., 293.)

787. Section 851, Revised Statutes, provides that—

There shall be paid to each seaman or other person who is sent to the United States from any foreign port, station, sea, or ocean, by any United States minister, chargé d'affaires, consul, captain, or commander, to give testimony in any criminal case depending in any court of the United States, such compensation, exclusive of subsistence and transportation, as such court may adjudge to be proper, not exceeding one dollar for each day necessarily employed in such voyage, and in arriving at the place of examination or trial. In fixing such compensation, the court shall take into consideration the condition of said seaman or witness, and whether his voyage has been broken up, to his injury, by his being sent to the United States.

788. When such seaman or person is transported in an armed vessel of the United States no charge for subsistence or transportation shall be allowed. When he is transported in any other vessel, the compensation for his transportation and subsistence, not exceeding in any case fifty cents a day, may be fixed by the court, and shall be paid to the captain of said vessel accordingly.

WITNESSES BEFORE COMMISSIONERS.

789. Section 981, Revised Statutes, provides that—

In no case shall the fees of more than four witnesses be taxed against the United States, in the examination of any criminal case before a commissioner of a circuit court, unless their materiality and importance are first approved and certified to by the district attorney for the district in which the examination is had; and such taxation shall be subject to revision, as in other cases.

790. A United States commissioner is not authorized to issue a subpoena for a witness outside of his district, and a witness attending before a commissioner upon a subpoena issued by him is entitled to mileage for travel within his district only. (9 Comp. Dec., 121.)

791. A circuit or district court is authorized to issue a subpoena for a witness outside of the district of a United States commissioner to appear before him. (9 Comp. Dec., 86.)

792. United States marshals will be governed by the two decisions above referred to in making payments to witnesses for travel made from their residences outside of the district to the place where they attend before the commissioner.

793 If a commissioner before whom a Chinese exclusion case is pending wishes to hear the testimony of witnesses on behalf of the prisoner and issues subpoenas for their attendance, the marshal will be authorized to pay his deputy all lawful fees for serving such subpoenas; but the commissioner should require a prisoner who is able to do so to pay the costs incurred by such process. The marshal is not authorized to pay the fees and mileage of witnesses subpoenaed on behalf of the prisoner. (6 Comp. MS. Dec., 9.)

COURT PAY ROLLS.

794. Form 685 should be used as the pay roll of witnesses, except where witnesses are allowed 15 cents a mile for travel by stage, when Form 686 should be used.

795. The residence of each witness should be given by stating the county and the post-office, or, if a witness does not reside at a post-office, by stating the county and the distance and direction from the nearest post-office.

796. Care should be taken that names as signed on the pay roll agree with the court's order to pay.

797. Signatures by cross marks on pay rolls of witnesses who attend upon the circuit or district courts must be attested by some person other than the marshal or his deputy.

798. Attention is invited to the following paragraph of Treasury Department Circular No. 22, dated February 11, 1899:

Payments made to jurors and witnesses on court pay rolls and witnesses on United States commissioners' pay rolls must be evidenced by the autograph signature, in the proper column, of each juror or witness to whom payment is made; and where payments are made by a check drawn to the order of each juror or witness, as prescribed in the regulations of the Department of Justice, the date and number of the check and the name of the depository on which drawn, must be stated on the pay roll opposite the name of the juror or witness to whose order such check was drawn, or be endorsed on the back of the pay roll, together with the name of the juror or witness.

799. When the name of a witness appears more than once on the pay roll for a term of court, cross references must be made.

800. When the names of the witnesses at a term of court are entered on more than one sheet of Form 685 or 686, the first sheet should be footed, the amount carried to the second sheet, and so on to the last sheet.

801. The sheets composing the roll should be fastened together at the upper left-hand corner.

802. Care must be taken to have the certificate of the clerk on the last sheet of the roll. The seal of the court is not necessary to the clerk's certificate, and no fee will be allowed therefor.

803. It is not necessary to forward with the accounts copies of orders to pay witnesses, the certificate of the clerk being received as evidence that such orders were entered.

804. It is not necessary for the marshal to make affidavit to each pay roll, his affidavit to the account as a whole being sufficient.

COMMISSIONERS' PAY ROLLS.

805. Blanks for the pay rolls of witnesses before commissioners are not furnished by the Department of Justice, as commissioners are entitled to fees for making them.

806. The pay rolls of witnesses before commissioners should be on paper 8½ by 18½ inches, and should be in the form given on page 126.

807. Signatures by cross mark on pay rolls of witnesses before commissioners should be attested by some responsible person who is not interested in the payment. Neither the commissioner who draws the order for payment nor the deputy marshal who is officiating before the commissioner in the case in which the order is drawn should attest the signatures.

808. Marshals should impress upon commissioners the importance of promptly forwarding to them orders to pay witnesses.

809. The witness pay rolls of each commissioner should be arranged chronologically, and the rolls of all commissioners should be fastened together at the upper left-hand corner. With the rolls should be submitted an abstract on Form 125, showing the number of each voucher, the title of the case, and the amount of each voucher. The total of this abstract should be carried to the account current.

MISCELLANEOUS.

810. Marshals are authorized to pay the fees of witnesses who have attended, in United States cases, before justices of the peace or other State officers who are authorized to hold preliminary examinations, when such fees are properly taxed by the officers. They should also pay witnesses who attend before examiners of the Pension Bureau in the manner prescribed by the act of July 25, 1882 (22 Stat. L., 174).

811. Section 848, Revised Statutes, provides that:—

When a witness is detained in prison for want of security for his appearance, he shall be entitled, in addition to his subsistence, to a compensation of one dollar a day.

812. A prisoner convicted of crime who was brought before a United States commissioner to testify as a witness is not entitled to mileage or fees. (9 Comp. MS. Dec., 860.)

813. A person in custody awaiting trial for an alleged offense, who attended before a United States commissioner as a witness, is entitled to the fee provided by law for such attendance. (6 Comp. Dec., 588.)

814. In a decision of the Comptroller dated March 28, 1903, to United States Marshal Palmer, of the District of Columbia, it was held that when a person who is serving a term in jail is used as a witness, if his time, in the opinion of the court, does not belong to the Government, he is entitled to per diems; otherwise he is not so entitled.

815. Under the act of August 1, 1888, providing for condemnation proceedings in the Federal courts, agreeably to the procedure in the State court, the jurors and witnesses may be paid the usual fees from the appropriations for expenses of United States courts, unless by the practice in the State court special compensation is payable for the services of the jury or witnesses, in which case such compensation would be payable from the appropriation for miscellaneous expenses of United States courts. (2 Comp. Dec., 377.)

816. The Secretary of the Treasury is authorized to enter into an agreement to compensate a witness whose testimony is necessary in the prosecution of a smuggler for coming within the jurisdiction of the courts, and to reimburse him for the necessary expenses incurred in performing the service. (4 Comp. Dec., 495.)

817. The appropriation for prevention and detection of frauds upon the customs service is applicable to the expense of procuring evidence to be used in the prosecution of a smuggler. (4 Comp. Dec., 495.)

818. The appropriation for expenses of collecting the revenue from customs is applicable to the compensation and expenses of witnesses under agreements to come within the jurisdiction of the courts and to expenses incurred by an assistant district attorney in collecting evidence, when the testimony of the witnesses and the evidence collected are necessary in proceedings for the forfeiture of goods seized by customs officers. (4 Comp. Dec., 519.)

819. An officer of the Navy is entitled only to actual and necessary expenses for travel performed in attending as a witness before a United States grand jury, in response to a subpoena, notwithstanding he may have been ordered by his superior officer to perform the travel in answer to said subpoena. (4 Comp. Dec., 146.)

SUPPORT OF PRISONERS.

JAIL ACCOUNTS.

820. Vouchers for subsistence, etc., of United States prisoners in jail should be made out quarterly on blanks furnished by the Department of Justice, names being written in alphabetical order, and all the columns filled in as indicated on the blank. Marshals should impress upon jailers the importance of making out their vouchers as required promptly at the close of each quarter. Those vouchers should be sworn to by the jailers.

821. At the close of each quarter the marshal will examine claims, verifying the same with the register of United States prisoners in his office in order to ascertain that charges are correct. Indorsement to that effect on each bill by the United States attorney and marshal should be made. Agents of the Department from time to time will examine the registers and report any negligence or carelessness in keeping the register.

822. After payment by the marshal, the bills should be included in his quarterly account under the appropriation "Support of prisoners, United States courts."

823. Marshals are required to scrutinize accounts payable from this appropriation with the utmost care, and see that no items are included which are not properly allowable. If in doubt as to any particular charge, or if expenses at all unusual are deemed necessary, authority should be obtained from the Attorney-General before incurring them.

824. Where two or more prisoners of the same name are charged for in one bill, that fact should be noted. The names of all persons to whom medical services, medicines, etc., are furnished, should correspond with names in bills for subsistence.

825. There should be rendered with bills for subsistence of prisoners all other bills incurred during the same quarter for services that may have been rendered a prisoner, such as medical services, etc. These should be carried to the abstract accompanying the account current consecutively. In the examination of these bills, it is necessary for accounting officers to refer to the bills for subsistence for the period covered by charges in claims for medical services, medicines, etc., and all bills are entered in books in the Department by counties. Expedition in adjustment of this character of bills is accomplished by adhering to these rules.

826. The register of United States prisoners committed to the several county jails should be carefully kept. Each marshal must see that United States commissioners and deputy marshals, together with jailers in whose custody prisoners are placed, are kept supplied with a sufficient number of what are known as "commitment" and "release" cards. Each deputy marshal must fill out one of the "commitment" cards whenever he commits a prisoner to jail, either temporarily or to serve sentence. Whenever a prisoner is again taken into custody by a deputy, he will fill out and forward a "release" card to the marshal. The information on the cards will be entered by the marshal in his register. It is expected that United States commissioners will fill out and forward a "release" card to the marshal whenever a United States prisoner brought before him is discharged. Jailers will fill out and forward a "release" card to the marshal whenever a United States prisoner is discharged by expiration of sentence. The form number of these cards is as follows: Deputy marshal's commitment card, No. 450; release card, No. 451; United States commissioner's release card, No. 509; jailer's release card, No. 510.

827. In cases where prisoners are committed or discharged by the marshal or an office deputy, and the marshal deems the use of the commitment and release cards unnecessary, he should inform the Department of the fact and request permission to dispense with their use in such cases. Unless permission has been granted, the cards must be used in all cases. It should be borne in mind that the object of the use of the cards is for the purpose of verifying charges in bills for subsisting prisoners.

828. As noted on the commitment and release cards, failure on the part of deputies to send in cards immediately to the marshal will be considered cause for suspension or removal.

MAINTENANCE OF CHINESE PRISONERS.

829. When rendering accounts under this appropriation in which are charges for support of Chinese persons alleged to be unlawfully within

the United States, marshals will be governed by the following instructions:

830. The appropriation "Support of prisoners, United States courts," is chargeable with the following expenses:

(a) The cost of maintenance of Chinese persons from and after the issue of a warrant and the arrest thereunder by a United States marshal or by a peace officer of any State or Territory, as provided by the act approved September 13, 1888, and the actual commitment to jail of such Chinese persons up to, but not including, the date the order of deportation is made and delivered to marshals for service.

(b) The cost of maintenance of Chinese persons from and after the issue of a warrant and the arrest thereunder as above indicated, and the actual commitment to jail of such Chinese persons up to and including the date of discharge, where such persons are discharged either by the United States commissioner or the district court.

831. In this connection, attention is called to instructions of the Department of Commerce and Labor, of July, 1903, Rule 47, regarding expenses properly chargeable under the appropriation "Enforcement Chinese exclusion acts," which are as follows:

832. (a) The cost of maintenance of Chinese persons who are taken into custody, up to and including the date upon which warrant issued by a United States judge or commissioner is received by the marshal.

833. (b) The cost of maintenance of Chinese prisoners, commencing with the date writ of deportation is first received by the marshal, provided the said order of deportation is not subsequently reversed upon appeal.

834. (c) The cost of deportation, including railroad and steamship fares of prisoners and marshal or deputy, authorized expenses for guard hire and maintenance en route.

835. Upon receiving writs of deportation marshals should at once make written report to the Commissioner-General of Immigration, Department of Commerce and Labor, Washington, D. C., giving names of the prisoners, where confined in jail, and when the period of appeal provided by section 13 of the act approved September 13, 1888, will expire. Instructions will then be issued as to the route to be followed, number of guards to be employed, and to whom accounts are to be presented or forwarded for settlement.

836. From the above it will be perceived that "there is no rule by which to determine whether expenses incurred prior to the action of a district court on appeal are payable from the Treasury fund or judiciary appropriations. It depends entirely on the question whether the order of deportation by the commissioner is affirmed or reversed by the district court." (Comp. MS. Dec., October 17, 1899.)

837. When rendering accounts which include charges for support of Chinese persons under this appropriation, there should be entered in the column "How released" the manner of such release, whether discharged or ordered deported. In the latter case there should be entered also in the column the date on which the order of deportation was made and delivered to the marshal for service.

PENITENTIARY ACCOUNTS.

838. Vouchers for support of United States prisoners in prisons, penitentiaries, reformatories, houses of correction, and institutions other than jails must be made out quarterly on blanks furnished by the Department of Justice, examined by the district attorney and marshal as to the correctness thereof, and forwarded to the Department of Justice, without payment by the marshal, for examination and approval, after which they will be referred to the Treasury Department for payment.

839. In addition to the record of United States prisoners, marshals will be required to keep in the register of United States prisoners, under separate headings, a record of all United States prisoners confined in State prisons, reformatories, etc., convicted in their respective districts, in cases where accounts of such institutions come before them for indorsement as to correctness, etc., and transmission to the Department.

PAY OF BAILIFFS, ETC.**GENERAL INSTRUCTIONS.**

840. A marshal's account under the appropriation "Pay of bailiffs, etc., United States courts," should include:

1. Pay of bailiffs and criers;
2. Expenses for travel and attendance of district judges directed to hold court outside of their districts;
3. Expenses of judges of the circuit courts of appeals;
4. Meals and lodging for jurors in United States cases, and for bailiffs in attendance upon the same, when ordered by the court;
5. Compensation of jury commissioners.

841. Form 17 should be used for the account current.

842. The vouchers should be numbered consecutively, and an abstract, showing the numbers of the vouchers, the names of the payees, and the amount paid to each, should be prepared and accompany the account.

843. All payments should be made by check. The date and number of the check and the name of the depository on which drawn should be shown at the bottom of each voucher.

BAILIFFS AND CRIERS.

844. Bailiffs are appointed by the marshal; criers, by the court.

845. Section 715, Revised Statutes, as modified by subsequent appropriation acts, provides for the appointment of three bailiffs and one crier in each court except in the southern district of New York,

where five bailiffs and one crier are allowed, and fixes the compensation of bailiffs and criers at \$2 per day.

846. Section 715 of the Revised Statutes, as modified by subsequent appropriation acts, limits the number of bailiffs to three for each court, and that number can not be exceeded, although the judge may hold both the circuit and district court at the same time. (1 Comp. Dec., 135; 2 Comp. Dec., 530.)

847. Where two judges sit in the same place, but in different divisions of the same circuit or district court, three bailiffs may be employed in each division. (1 Comp. Dec., 135.)

848. A condition imposed by the Attorney-General in allowing a marshal to employ an office deputy and in fixing his salary, that the deputy should act, without compensation, as bailiff is a condition by which the marshal should be governed; the marshal, in contravention of that condition, having appointed and paid another person as bailiff, is not entitled to credit therefor. (4 Comp. Dec., 226.)

849. Bailiffs and criers can be paid only for actual attendance. They are deemed to be in actual attendance when they attend upon the order of the courts. (But see paragraphs 853 and 854.)

850. The proviso in the act of June 11, 1896, that all persons employed under section 715 of the Revised Statutes shall be deemed to be in actual attendance when they attend upon the order of the courts, authorizes payment of bailiffs and criers for the days upon which they attend on the order of the court, although the judge is not actually present, but court is opened by his order or is opened on a day fixed by statute. (3 Comp. Dec., 522.)

851. Under section 715 of the Revised Statutes, as amended by the several appropriation acts since March 2, 1895, a marshal is entitled to credit for the payment of fees to a bailiff who attends by order of the court on the grand or petit jury on days when the court is not in session. (4 Comp. Dec., 113.)

852. A marshal is entitled to credit for payments to three bailiffs attending upon the order of the court upon a day to which the United States circuit court of appeals is adjourned, although a quorum of the court does not appear and one judge opens and adjourns the court and then holds a circuit or a district court or both, for which another set of three bailiffs is employed and paid. (4 Comp. Dec., 141.)

853. A bailiff in attendance upon a term of court is entitled, under the joint resolutions of January 6, 1885, and February 23, 1887, and the act of June 28, 1894, to his per diem compensation for a legal holiday when the session of the court is temporarily interrupted by adjournment over such holiday. (1 Comp. Dec., 253.)

854. Bailiffs and court criers are per diem employees within the meaning of the joint resolution of January 6, 1885, which provides that per diem employees shall receive the same pay for the holidays therein specified as on other days. (9 Comp. Dec., 437.)

855. The employment of a bailiff does not necessarily terminate upon the expiration of the term of the marshal who employed him. (4 Comp. Dec., 603.)

856. A person employed as bailiff for a judge at chambers when court is not in session is not entitled to compensation. (Comp. Dec., Letter to Auditor, June 23, 1898.)

857. Bailiffs and criers can not employ substitutes. Each must present a voucher in his own name.

858. Section 13 of the act of May 28, 1896, provides that no office or field deputy shall receive compensation as bailiff, and section 20 of the

same act prohibits a United States commissioner from receiving compensation as a bailiff.

859. The account of a bailiff or crier should be made out on Form 5. It should show the name of the bailiff or crier, whether for the circuit or district court, where court was held, the name of the judge presiding, and the dates for which payment is claimed.

860. The affidavit given on the form should be entirely filled out and executed by the bailiff or crier before some one authorized to administer oaths generally.

861. The receipt should be entirely filled out and signed by the bailiff or crier.

862. The clerks of the several courts must certify on Amended Form 377: (1) That on the dates for which pay is claimed (enumerating the dates) the judge (naming him) was personally present in court and presiding, and (2) that the court was actually opened by him for business; or, the clerk must certify that on the dates for which pay is claimed (specifying them) the bailiffs or crier attended upon the *order* of the court.

863. The clerk's certificate should, in every instance, show the place where court was held.

864.

AMENDED FORM NO. 377.

I,, clerk, U. S. court, certify that on each of the following named days, viz, the court was opened for business at by Judge (name), and upon the following named days, viz, bailiff, attended; bailiff, attended; bailiff, attended; crier, attended upon the order of the court.

.....,
Clerk, U. S. Court.

865. The certificate of the clerk should be attached to the account current.

EXPENSES OF JUDGES.

866. The reasonable expenses for travel and attendance of district judges directed to hold court outside of their districts, and the reasonable expenses for travel and attendance of judges of the circuit courts of appeals when attending court at any place other than where they reside, in either case not to exceed \$10 per day, may be paid on the written certificates of the judges.

867. The appropriation made for the expenses of district judges and judges of the circuit courts of appeals is not available for payment of the expenses of judges of the Territorial district courts. (2 Comp. Dec., 238.)

868. Form 28 should be used as the certificate of a district judge directed to hold court outside of his district, and Form 33 as the cer-

tificate of a judge attending a term of the circuit court of appeals at a place other than where he resides.

869. The certificate should be entirely filled out and signed, as also the receipt at the bottom.

MEALS AND LODGING FOR JURORS.

870. The expense of furnishing meals and lodging for jurors in *United States cases*, and for bailiffs in attendance upon the same, may be paid when ordered by the court.

871. There is no appropriation from which to pay the expense of furnishing meals and lodging for jurors in cases in which the United States is not a party.

872. The account should be made out on Form 8. It should show the name of the claimant, the title of the case, the offense charged, the first and last meal or lodging and the dates, and the rate per day.

873. The claimant should certify that the account is correct and just, and that the rates charged are not in excess of the usual rates for meals and lodging.

874. The certificate of the clerk should be entirely filled out and signed. If charge is made for meals and lodging for bailiffs in charge of the jury, the certificate should state that the court ordered the marshal to furnish the jury *and bailiffs* (giving the number) with meals and lodging.

875. The receipt at the bottom should be entirely filled out and signed by the claimant.

JURY COMMISSIONERS.

876. Jury commissioners are appointed by the judge.

877. The compensation of a jury commissioner is \$5 per day, and he may be paid for not exceeding three days for any one term of court.

878. When separate jury commissioners have been appointed by the circuit and district courts, each is entitled to compensation for not exceeding three days in any term of the court for which he acts as commissioner, the appropriation not being limited to one commissioner for both courts. (2 Comp. Dec., 627.)

879. A person appointed a jury commissioner of both the circuit and the district courts for the southern district of New York is entitled to per diem fees for not exceeding three days' service in each court at each term thereof, such terms being fixed by sections 572 and 658 of the Revised Statutes. (3 Comp. Dec., 618.)

880. It being required by law that the same grand and petit jury shall serve in the circuit and district courts in South Dakota, the terms of both courts being held at the same time, the jury commissioner is entitled to not exceeding three per diem fees for his services at each term of both courts. (4 Comp. Dec., 63.)

881. A jury commissioner who is limited by law to compensation for not exceeding three days at "any one term of court," can not be paid for services at an "adjourned term" when he has received payment for three days' service at the term of court held at the time and place fixed by law. (4 Comp. Dec., 63.)

882. There is no authority of law for payment of mileage or other allowance to a jury commissioner in addition to the per diem fee of \$5 for not exceeding three days for any one term of court. (4 Comp. Dec., 352.)

883. The account should be made out on Form 24. It should show the name of the jury commissioner, whether for the circuit or district court or for both, the term, the place, and the dates for which payment is claimed.

884. The marshal must state on the voucher whether any preceding payment has been made to the jury commissioner for services at the term of court mentioned in the voucher. See paragraph 881.

885. The affidavit should be entirely filled out, and executed before any one authorized to administer oaths generally.

886. The receipt should be properly filled out and signed.

MISCELLANEOUS EXPENSES, UNITED STATES COURTS.

GENERAL DIRECTIONS.

887. The appropriation "Miscellaneous expenses, United States courts," is by law placed under the control of the Attorney-General, and no credit will be allowed a marshal in his accounts for disbursements from that appropriation unless such disbursements are authorized by the Attorney-General.

888. No action should be taken which will result in the presentation of a claim under this appropriation without specific authority for such action from the Attorney-General, except in emergencies in which it is impossible to obtain authority in advance, but in such cases the facts must be clearly set forth to the satisfaction of the Department. There is nearly always time, however, to communicate with the Department by telegraph.

889. When any person presents to a marshal a claim which is properly payable from the appropriation "Miscellaneous expenses, United States courts," for services rendered in separate fiscal years, such claim must be presented in separate accounts, each covering the services rendered in but one fiscal year.

890. All yearly or quarterly salaries which, as disbursing officers, marshals are required to pay, and which have been authorized by the Department of Justice, should be paid in accordance with the Government salary tables. These salary tables were reissued by the Comptroller of the Treasury, December 10, 1896, to become effective April 1, 1897.

891. In the absence of any law or regulation governing the calculation of salary due to a person employed at a monthly salary who serves a fractional part of a month, such proportion of the monthly salary should be paid as the number of days served bears to the whole number of days in the month in which the service is rendered. (2 Comp. Dec., 81.)

892. The tables prescribed by the accounting officers for the calculation of amounts due to persons in civil employments receiving quarterly or annual salaries do not affect the method of prorating, for a fractional part of a month, according to the actual number of days in that particular month, the compensation of a person employed at a monthly salary. (3 Comp. Dec., 463.)

893. Usually vouchers under this appropriation should be made out on Form 324, but when a special form is provided for a particular class of expenses, such special form should be used.

894. A voucher should show the name of the claimant and should be fully itemized, giving the date of each item of service or expense.

895. Reference should be made in the proper place on the voucher to the date of the letter authorizing the expense.

896. The receipt should be entirely filled out and signed.

897. The date and number of the check and the name of the depository on which drawn should be given at the bottom of the voucher.

898. The amount of each voucher should be carried to an abstract (Form 9). The abstract should be entirely filled out and should be signed by the marshal and district attorney. Only the footing of the abstract should be carried to the account current.

INTERPRETERS.

899. The accounts of interpreters should be made out on Form 583. Such accounts, when they include expenses, must be itemized and sworn to, and must be accompanied by a certificate of the district attorney to the effect that the services were actually and necessarily rendered, and the marshal must certify that no payment was made to the claimant from the appropriation "Fees of witnesses, United States courts."

MESSENGERS.

900. Messengers for judges can be employed and paid only upon authority of the Attorney-General.

901. Application for authority to employ a messenger must state: (1) Name of judge desiring the messenger; (2) circumstances requiring the employment; (3) rate of compensation; (4) duration of employment.

902. When authorized by the Attorney-General, the accounts of such messengers may be paid by the marshals from the appropriation "Miscellaneous expenses, United States courts," after being approved by the judge for whom the services were rendered.

EXPERT SERVICES AND TESTIMONY.

903. Experts are not entitled to receive and must not be paid witness fees or mileage or reimbursement for actual expenses from the appropriation "Fees of witnesses, United States courts."

904. The accounts of experts should show the exact period during which the services were rendered. Expenses, when allowed, must be fully itemized and supported by proper vouchers. Receipts for railroad fare, sleeping-car fare, and single meals are not required. The accounts must be approved by the district attorney, and the marshal must certify that no payment has been made to the claimant from the appropriation "Fees of witnesses, United States courts." If per diems are charged for Sundays or holidays, the affidavit to the account and the approval of the district attorney must state specifically that services on such days were actually and necessarily rendered. These accounts should be rendered (in duplicate) on Form 674.

905. The accounts of national-bank examiners and the expense accounts of persons in the Government service who may render services as experts must be supported by an affidavit including the statement that the claimant has not received, is not entitled to receive, and will not claim compensation for the services or reimbursement for the expenses from any other source.

RECORD BOOKS FOR CLERKS OF UNITED STATES COURTS.

906. Books for the use of a clerk of a circuit or district court, in recording the proceedings of the court, may be purchased by the marshal upon receipt of authority from the Attorney-General, and paid for from the appropriation "Miscellaneous expenses, United States courts."

907. The applications must state the character of the books, for whose use, and for what purpose they are needed, and must be accompanied by a statement from the judge that such books are needed by the clerk who applies for them and that they "are absolutely necessary for recording the proceedings of the court and come within the purview of section 830, Revised Statutes." Requisitions of this character should be made on Department Form 25A.

908. Separate requests should be submitted by clerks for authority to purchase any books which may be needed other than the court records above mentioned.

909. If the proposed expenditure, the total amount of which must be stated in every instance, is in excess of \$10, bids from two or more prominent dealers must accompany the application.

910. The account must show that the books have been received by the clerk of the court.

EXPENSES OF TAKING JURY TO VIEW LANDS.

911. In a suit in a United States court brought to condemn land for use in connection with the work of improving a river, the expenses of taking the jury to view the land are payable from the appropriation of the Department of Justice made for the

expenses of United States courts, and not from the War Department appropriation for the improvement in connection with which the land is needed. (2 Comp. Dec., 201.)

912. Such expenses are payable from the appropriation "Miscellaneous expenses, United States courts." But marshals should not pay expenses of this character except upon authority of the Attorney-General.

913. If the district attorney or the marshal, or his office deputy, accompany the jury of view, the expenses incurred by them must be charged only in their respective quarterly expense accounts.

914. The expenses of travel and subsistence only of the jurors and a bailiff in charge are payable from this appropriation. These expenses must be kept at the minimum consistent with the proper transportation of the jury.

ADVERTISING.

915. The act of June 20, 1878 (20 Stat. L., 216), provides:

That hereafter all advertisements, notices, proposals for contracts, and all forms of advertising required by law for the several departments of the Government may be paid for at a price not to exceed the commercial rates charged to private individuals, with the usual discounts; such rates to be ascertained from sworn statements to be furnished by the proprietors or publishers of the newspapers proposing so to advertise.

916. When a charge for a payment to a publisher appears in a marshal's account he must furnish a copy of the advertisement with the affidavit of the publishers setting forth the rates and that same are not in excess of the commercial rates charged to private individuals, with the usual discounts.

917. Use Form 315 for this purpose.

918. A disbursing officer is not authorized to pay bills for newspaper advertising when he is satisfied that the price exceeds the commercial rates charged to private individuals, with the usual discounts, notwithstanding the affidavit of the proprietors of the newspaper to the contrary. (1 Comp. Dec., 312.)

TELEGRAMS OF JUDGES.

919. Messages from a judge to the Department on court business will be paid by the marshal as a miscellaneous expense, as will messages from a judge to another judge solely on his judicial business.

CHAPTER V.

MISCELLANEOUS MATTERS.

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SERVICE OF PROCESS.

920. In cases in which there is sufficient time to do so, writs issued by clerks of the United States courts and United States commissioners will be sent directly to the office of the marshal for docketing and distribution to the proper deputies.

921. Full instructions as to docketing writs will be found on page 45.

922. After it has been docketed a writ should be sent to the deputy located nearest the probable place of service unless the deputies in the district have been assigned to certain territory, in which event the writ should be sent to the deputy for the territory in which the service is to be made. This is important, as the question of unnecessary travel is involved in every case where a writ is served by a deputy who is not the nearest to the place of service, and in such a case the marshal will be required to explain why the writ was not served by the deputy nearest the place of service before mileage going to serve, or actual expenses in lieu thereof, can be allowed.

923. In cases in which the delay caused by sending the writs to the marshal's office might permit the defendants to escape or materially increase the expense of the proceedings, or in which for some other good reason it is desirable that the writs be served without delay, clerks and commissioners may hand or mail the writs directly to the deputy marshal located nearest the probable place of service.

924. In such case the deputy receiving the writ must immediately notify the marshal of its receipt on Form 645, giving him the information indicated by the form.

925. As soon as the service of any writ is completed a report of such service should be prepared on Form 32 and forwarded to the marshal's office. The reports are to be used by the marshal in making the proper entries in his dockets and in preparing his accounts.

926. When a warrant is executed and the witnesses in the case can be served on the same trip, it is the duty of the deputy to do so, and failure on his part to use all reasonable diligence in locating the witnesses and securing service will be considered just cause for suspension or removal. The same course will be followed with deputies who intrust the service of subpoenas to private individuals.

927. When a marshal or deputy arrests a person charged with any crime or offense, the defendant should be taken before the United States commissioner nearest the place of arrest, or before the nearest other judicial officer having jurisdiction under existing laws who is no farther from the place of arrest than such nearest commissioner.

928. When a defendant is taken to the headquarters of the commissioner nearest the place of arrest for hearing, and that commissioner is absent, or for any other reason does not hear the case, the prisoner should be taken from that place to the nearest commissioner.

929. When it is known that the commissioner nearest the place of arrest is absent from his headquarters, the prisoner should be taken to the commissioner next nearest the place of arrest.

930. The Comptroller has held that persons arrested on writs of *capias* need not be taken before the nearest commissioner, but should be taken directly to court if in session, unless the defendant desires to and can give bail for his appearance, in which case he may be taken before a United States commissioner for that purpose. If taken before a commissioner, he should be taken before the nearest commissioner. (See Comp. Dec., Marshal Allen, October 17, 1900.)

931. When subpoenas are served on Government officials they should be notified that they are entitled to actual expenses only, and that they should obtain receipts for lodging and subsistence, team hire, and stage fare.

932. All copies of writs should be made in the marshal's office by the office force, for which no additional expense should be charged against the United States.

933. An act approved March 3, 1899 (30 Stat. L., 1237), provides:

That hereafter all unserved process remaining in the hands of a marshal or his deputies, when the marshal ceases to be such, shall be immediately delivered to the succeeding marshal upon request; and when a deputy United States marshal resigns or is removed, he shall, upon request, deliver to the United States marshal for the district all process remaining in his hands.

ARREST, MAINTENANCE, AND DEPORTATION OF CHINESE PERSONS.

934. With the exceptions given below, the fees and expenses to which marshals and their deputies are entitled in the arrest of Chinese persons found to be unlawfully within the United States, or having unlawfully entered the United States, are the same as in criminal cases, concerning which instructions will be found in appropriate places in this book. Fees and expenses in connection with the arrest of such Chinese persons should be charged in the regular accounts of marshals, just as in other cases.

935. A marshal arresting a prisoner under the Chinese exclusion act is not entitled to mileage for transporting him to the commissioner who issued the warrant when there was at the place of arrest an officer authorized by section 13 of the exclusion act to hear the cause, the travel not being necessarily performed within the meaning of the act of February 22, 1875. (2 Comp. Dec., 457.)

936. While the act of Congress approved August 18, 1894, has been held not to apply to Chinese deportation cases, the question of the *necessity* for taking a Chinese person before other than the United States commissioner or committing magistrate nearest to the place of arrest is always involved; and the burden will be upon the marshal to show that such necessity actually existed.

937. Attention is invited, however, to an act approved March 3, 1901 (31 Stat. L., 1093), which provides "That it shall be lawful for the district attorney of the district in which any Chinese person may be arrested for being found unlawfully within the United States, or having unlawfully entered the United States, to designate the United States commissioner within such district before whom such Chinese person shall be taken for hearing."

938. When a commissioner is designated, as provided in the act above-mentioned, the Chinese person arrested is to be taken before the commissioner designated to hear the case. The account should state that the commissioner before whom the prisoner was taken was designated to hear the case.

939. Marshals will be governed by the following rules as to the appropriations from which the cost of maintenance of Chinese persons is payable.

940. The cost of maintenance of a Chinese person while in the custody of a marshal or his deputy, before an order of deportation has been made and delivered to the marshal, is payable from the appropriation "Salaries, fees, and expenses of marshals." The expenses of keeping such person while in jail, however, are not payable from that appropriation.

941. The appropriation "Support of prisoners, United States courts," is chargeable with the following expenses:

(a) The cost of maintenance of Chinese persons from and after the issue of a warrant and the arrest thereunder by a United States marshal or by a peace officer of any State or Territory, as provided by the act approved September 13, 1888, and the actual commitment to jail of such Chinese persons up to, but not including, the date the order of deportation is made and delivered to marshals for service.

(b) The cost of maintenance of Chinese persons from and after the issue of a warrant and the arrest thereunder as above indicated, and the actual commitment to jail of such Chinese persons up to and including the date of discharge, where such persons are discharged either by the United States commissioner or the district court.

942. Attention is invited to rule 47 of the instructions of the Department of Commerce and Labor, issued in July, 1903, regarding the expenses properly chargeable to the appropriation "Enforcement Chinese exclusion acts," which is as follows:

943. The appropriation "Enforcement Chinese exclusion acts" should be charged with the following expenses:

(a) The cost of maintenance of Chinese persons who are taken into custody, up to and including the date upon which warrant issued by a United States judge or commissioner is received by the marshal.

(b) The cost of maintenance of Chinese prisoners, commencing with the date writ of deportation is first received by the marshal, provided the said order of deportation is not subsequently reversed upon appeal.

(c) The cost of deportation, including railroad and steamship fares of prisoners and marshal or deputy, authorized expenses for guard hire and maintenance en route.

944. Upon receiving writs of deportation marshals should at once make written report to the Commissioner-General of Immigration, Department of Commerce and Labor, Washington, D. C., giving names of the prisoners, where confined in jail, and when the period of appeal provided by section 13 of the act approved September 13, 1888, will expire. Instructions will then be issued as to the route to be followed, number of guards to be employed, and to whom accounts are to be presented or forwarded for settlement.

The following decisions of the Comptroller of the Treasury relate to the expenses of maintaining and deporting Chinese persons unlawfully in the United States:

945. Expenses of deporting a Chinese person who has been convicted of being unlawfully in the United States, which accrue after the order of deportation has been delivered to the marshal, are payable from the appropriation for enforcement of the Chinese exclusion acts. (5 Comp. Dec., 47.)

946. Where an appeal from the judgment of a United States commissioner to a district court operates to vacate the judgment of the commissioner, the expenses incident to the imprisonment and transportation of a Chinese person sentenced to be deported, which accrue before the order by the district court has been delivered to the marshal, are not payable from the appropriation for enforcement of the Chinese exclusion act. (5 Comp. Dec., 382.)

947. The expenses of supporting Chinese persons committed by order of court to the custody of the marshal, pending proceedings under a writ of habeas corpus to try the validity of their detention by customs officers, are payable from the appropriation for support of prisoners. (7 Comp. Dec., 437.)

948. Expenses incurred in an endeavor to recapture Chinese prisoners who escaped from the custody of an office deputy marshal while being transported to the seaboard for deportation are properly payable as incident to the cost of transportation. (5 Comp. Dec., 487.)

949. The appropriation for the enforcement of the Chinese exclusion act, "including the actual expense of conveyance of Chinese persons to the frontier," made for the fiscal year 1895 is available for the expense of transporting Chinese persons to the frontier for deportation to countries other than China, when so directed by the order of court. (1 Comp. Dec., 202.)

950. The appropriation for enforcement of the Chinese exclusion act is applicable to all expenses incurred in the arrest of Chinese persons unlawfully in the United States by a Chinese inspector prior to the issuance of a warrant and their arrest thereunder by a United States marshal. (7 Comp. Dec., 372.)

951. Expenses of a deputy marshal incurred in the detention of a Chinese prisoner arrested without warrant until a warrant for his arrest was issued are payable from the proper judiciary appropriation. (8 Comp. Dec., 470.)

952. If, upon arriving at the port of deportation, a deputy marshal be, for any reason, unable promptly to deport a Chinese person in his custody, in order that such Chinese person may lawfully be held, and that the deputy may return to his proper district without delay, the marshal of the district from whence the writ was issued should depute some person residing at the place of the prospective deportation (preferably one of the deputy marshals of such district) to act as his special deputy for the purpose of executing the order of deportation.

CLAIMS.

953. Judiciary funds for any given fiscal year may be advanced only until September 30 of the following fiscal year.

954. Claims against the Government on account of fees earned or expenses incurred during any given fiscal year, remaining unpaid after September 30 of the following fiscal year, should be transmitted to this Department for administrative action and transmission to the accounting officers for settlement and payment direct from the Treasury.

955. The address of each juror, witness, or other claimant must be given, as a warrant covering each claim properly payable by the Government, will be sent to the claimant.

956. Before transmission to this Department, the marshal will ascertain whether or not the claims are properly payable by the Government, and if such be the case, indorse thereon his official approval.

957. Claims submitted for settlement as above directed must be supported by the affidavit of the marshal to the effect that it has been found, upon careful examination of all duplicates of accounts in which

credit might have been claimed for disbursements covering said claims, that said credit has not been claimed, and that none of the items included in the claims have been previously charged against the United States. They must also be accompanied with a full explanation of the cause of the delay in presentation.

ASSIGNMENTS, POWERS OF ATTORNEY, TRANSFERS, ETC.

958. Section 3477, Revised Statutes:

All transfers and assignments made of any claim upon the United States, or of any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the consideration therefor, and all powers of attorney, orders, or other authorities for receiving payment of any such claim, or of any part or share thereof, shall be absolutely null and void, unless they are freely made and executed in the presence of at least two attesting witnesses, after the allowance of such a claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof. Such transfers, assignments, and powers of attorney must recite the warrant for payment, and must be acknowledged by the person making them before an officer having authority to take acknowledgments of deeds, and shall be certified by the officer; and it must appear by the certificate that the officer, at the time of the acknowledgment, read and fully explained the transfer, assignment, or warrant of attorney to the person acknowledging the same.

959. The word "claim," as used in section 3477, Revised Statutes, which provides that "all transfers and assignments made of any claim upon the United States * * * shall be absolutely null and void," unless made as prescribed therein, comprehends all demands against the United States for the payment of money, whether liquidated or unliquidated; and an assignment of a judgment against the United States made before "the issuing of a warrant for the payment thereof" is within the meaning of the statute and void. (4 Comp. Dec., 196.)

LEAVE OF ABSENCE.

960. Before absenting themselves from their districts for any purpose, except in the service of process or in transporting prisoners, marshals must obtain leave from the Attorney-General.

961. Leave of absence to office deputy marshals, not to exceed thirty days in any calendar year, will be allowed. Marshals may grant such leave at times when it will not interfere with the public business, and must at once advise the Department.

962. In addition to the annual leave provided for in the preceding paragraph, marshals may, in cases of sickness or unavoidable incapacity, grant sick leave not exceeding thirty days to any one deputy in any calendar year, and must at once advise the Department.

963. Marshals must not approve the salary voucher of any office deputy who has been absent from duty except as above stated, but such voucher must be returned to the disbursing clerk with a statement of the facts, as directed in paragraph 82.

964. Thirty days' annual and thirty days' sick leave of absence in a year may not be granted to each of a succession of persons holding the

same position, but a person who is appointed after the beginning of a year should be granted leave only in proportion to the time of his actual service, i. e., at the rate of two and one-half days per month, as such leave accrues.

SERVICES AND SUPPLIES FOR COURT ROOMS AND OFFICES IN FEDERAL BUILDINGS.

965. In all cases where courts are held in Federal buildings under the control of the Secretary of the Treasury, applications should be made to the custodian for all necessary services of janitors and kindred employees, furniture, and all supplies other than books, stationery, towels, toilet soap, and matches, when required for United States court officials only.

966. Services and supplies in public buildings, as indicated by the following list, will be furnished through and under the direction of the custodian, who will obtain instructions from the Secretary of the Treasury:

Washing of towels for court officials.

Services of engineers, firemen, laborers, watchmen, and other employees necessary for the proper cleaning, heating, etc., of the premises.
Supplies for employees above mentioned.

Fuel, lights, water, and ice.

Furniture and carpets, including file cases and file boxes.

Safes, vaults, locks, etc.

Alterations and repairs of furniture and buildings.

Heating, hoisting, and ventilating apparatus.

967. The expense of procuring metal file boxes, to be used in a file case in the office of the clerk of a United States court situated in a public building under the control of the Secretary of the Treasury, is properly payable from the Treasury Department appropriation for furniture for public buildings, being the same appropriation to which the cost of the file cases is charged. (3 Comp. Dec., 252.)

COURT ROOMS AND OFFICES IN RENTED BUILDINGS, FURNI- TURE, ETC.

968. Section 830, Revised Statutes, provides that the marshal "shall not incur or be allowed an expense of more than twenty dollars in any one year for furniture, or fifty dollars for rent of a building and making improvements thereon, without first submitting a statement and estimates to the Attorney-General and getting his instructions in the premises."

LEASING PERMANENT COURT ACCOMMODATIONS.

969. In all cases where it becomes necessary to provide permanent accommodations for the courts and their officers, either in a State or a

Territory, it is the duty of the marshal to communicate with the Department, stating the necessities of the situation and specifying the actual duration of past terms of court (if any) and the probable duration of future terms of court at the place in question.

970. It is the duty of the marshal upon receipt of instructions to examine and ascertain what suitable buildings or rooms can be procured, and openly to invite written proposals for leasing same to the Government for court purposes.

971. The proposals, when received, should be transmitted by the marshal to the Department, together with a letter reporting the results of his examination and submitting such additional information as will enable the Department to determine which building or rooms will afford the most satisfactory accommodations at the most reasonable rates.

972. Diagrams or plans should be submitted showing the dimensions of the several rooms, their relative situation, and the purposes for which each will be used. The certificate of the United States district judge and attorney must be furnished to the effect that the rooms, to lease which authority is desired, are conveniently located and suitable in all respects for court purposes, and that the terms upon which they are offered are more favorable to the Government than those under which any similar accommodations can be obtained.

973. Before accepting any proposition or entering into any lease for the renting of permanent or temporary quarters for the courts or court officers, marshals will communicate with the Department and secure authority for the same. In all these cases properly furnished quarters should be secured wherever possible and the lessors required to keep the furniture in repair. Marshals will be expected to submit their recommendations, based upon a personal investigation, when forwarding propositions for court quarters.

974. Unless there are peculiar circumstances rendering such a course entirely impracticable, heat, light, janitor's services, and janitor's supplies must be furnished by the lessors in every instance.

975. Blank forms (Form 47 A) for the preparation of leases will be forwarded, together with the letters authorizing the execution of the contracts.

RENTING TEMPORARY COURT ACCOMMODATIONS.

976. Applications for authority to provide temporary quarters for a stated term of court must specify the proposed rate of payment therefor and the probable duration of the term. Evidence should be submitted that the proposed rental is not in excess of the regular prevailing rates paid for the use of similar property.

977. In all such cases not only heat, light, janitor's services, and janitor's supplies must be furnished by the owners of the rented property, but also all necessary fixtures, furniture, etc., whenever possible.

ACCOUNTS FOR RENT OF COURT ROOMS.

978. Payments for rent of court rooms will be made direct from the Treasury. The marshal will cause accounts to be rendered by the lessor covering the rent due. Each account must bear indorsement of the marshal's official approval, and contain reference to the lease under which the claim is submitted or to the authority given by the Attorney-General for incurring the expense. The accounts must be forwarded to the Department of Justice.

979. Each account should show the period during which the room or rooms were used for United States court purposes.

FURNITURE FOR RENTED BUILDINGS.

980. Furniture, for use in rented buildings (except in clerks' offices), will be supplied by the Department, when the lease does not require the lessor to furnish same. Applications for furniture must contain a description of the articles and a statement as to the necessity for the same.

TRANSFER OF FURNITURE, ETC., FROM RENTED TO FEDERAL BUILDINGS.

981. The expense of removing furniture, safes, and other articles which may be the property of the Government from a rented building to a Federal building under the control of the Secretary of the Treasury will be defrayed by the custodian of the Federal building, under whose direction the transfer will be made.

982. Those articles which will not be needed and can not be used in the public building, and which the custodian refuses to take, should be sold by the marshal, unless needed elsewhere in the district, upon receipt of instructions to this effect from the Department.

983. The removal of all court records, however, will be made under the direction and supervision of the marshal, who must make application to the Department for authority to incur the necessary expense, submitting bids if the proposed expenditure is in excess of \$10.

REPAIRS AND ALTERATIONS OF LEASED OR RENTED PREMISES.

984. The fitting up of leased or rented premises for court purposes, so far as fixtures, alterations, and labor incident thereto are involved, must be at the expense of the lessors, and marshals are directed to see that all leases so provide.

985. The lessors or owners should be promptly notified from time to time of any need of repairs which may arise or condition of the premises requiring attention, such as frozen pipes, leaking gas, leaking roof, or other defects. The marshal is not authorized to incur expenses for

such preservation and repairs, and if emergency should arise requiring immediate action, the lessors or owners should be called upon to reimburse the marshal for his necessary expense in such emergency.

SUPERVISION OF RENTED QUARTERS.

986. The marshal of each district is considered by the Department as the custodian of all buildings or rooms leased for the accommodation of the United States courts and court officials in his district, and the marshal is expected to see that the terms of all leases are complied with.

987. The attention of marshals is invited to the fact that in the event rented premises are not kept in sanitary tenantable condition, they should refuse to approve rent accounts, and should advise the Department and lessors immediately as to the reason for such disapproval. Marshals should, in like manner, withhold their approval from accounts for rent where lessors have agreed to repair or improve property, and the repairs or improvements have not been made, notifying lessors of such action and the reasons therefor.

988. Marshals are expected to know whether or not the rates of rental paid by the United States are proportionately greater than those paid by private individuals, and to inform the Department by letter of the approaching termination of leases.

989. Marshals are also expected to know whether or not the terms of leases are being complied with by lessors, and to advise the Department at the earliest possible moment of any laxity or neglect in this respect.

STATIONERY AND MISCELLANEOUS SUPPLIES.

GENERAL DIRECTIONS.

990. Stationery and miscellaneous supplies for United States judges, attorneys, and marshals, and for use in the court room during a term of court, will be furnished direct from the Department of Justice.

991. Blank forms for making requisition for such stationery and office supplies will be furnished by the Department upon request, and application must be made upon these forms in the manner indicated thereon.

992. Separate requisitions should be made by judges, attorneys, and marshals, over their respective signatures, on or about April 1 and October 1, for a supply sufficient to last six months. Avoid making supplemental requisitions as far as possible.

993. Supplies will be shipped at the earliest practicable date, but requisitions should be made at least thirty days before the supplies are needed.

994. Unnecessary and unusual articles will not be sent, and it is expected that only such items as are absolutely needed in the tran-

saction of public business will be requested. Applications for fancy articles will be disapproved.

995. Stationery will *not* be supplied to clerks of United States courts, but may be purchased and paid for, as heretofore, from official emoluments upon receipt of proper authority from the Department.

STATIONERY AND SUPPLIES.

996. Department Form 17 A is to be used in making requisitions for all supplies *except* printed letter heads, envelopes, blank forms, dockets, ink, mucilage, and paste, for which separate blanks are provided, as indicated below.

BLANK FORMS AND DOCKETS.

997. The act of January 12, 1895, (28 Stat. L., 624) contains the following proviso:

All blanks and letter heads for use by the judges and other officials of the United States courts, other than such as are required to be paid for by any of these officers out of the emoluments of their offices, shall be printed at the Government Printing Office upon forms prescribed by the Department of Justice, and shall be distributed by it upon requisition.

998. Under this provision of law *all blanks* and letter heads for judges, attorneys, and marshals must be printed at the Government Printing Office. No credit will be allowed for the expense of such printing other than in accordance with the act of January 12, 1895.

999. Department Form 18 A is to be used in making requisitions for blank forms and dockets only.

PRINTED LETTER HEADS AND ENVELOPES.

1000. Department Form 19 A is to be used in making requisitions for printed letter heads and envelopes only. Letter heads can not be furnished in less than forty-five days from the date the requisition is received. For envelopes sixty days are required. No requisitions for letter heads and envelopes will be honored between May 1 and June 30.

1001. The names of court officials (except judges) will be omitted from letter heads, envelopes, and blanks, owing to changes which are continually taking place on account of expiration of terms, resignations, deaths, etc.

INK, MUCILAGE, AND PASTE.

1002. Inks and mucilage can not be shipped except during warm weather. On or about May 15 of each year marshals will ascertain the quantity of mucilage, paste, writing, copying, combined, and crimson inks which will be needed by the Federal judges, United States

attorney, the marshal's office, and for court purposes in their respective districts during the entire fiscal year beginning on the 1st day of July following.

1003. Upon obtaining these facts each marshal will forward separate requisitions, using Department Form No. 17 AA, under the following captions: District and circuit judges, United States district attorney, over their respective signatures; for United States marshal's office, and for terms of district and circuit courts, stating the quantity of each item on hand and the amount required.

1004. The shipments will be made through the War Department to the marshals, who will see that the proper distribution is made.

1005. No freight charges are to be paid by the marshal upon the shipments of ink or upon shipments of other supplies forwarded through the War Department.

REQUESTS FOR AUTHORITY TO PURCHASE SUPPLIES.

1006. Department Form 25 A is to be used by marshals when asking for authority to purchase court records and other supplies not furnished direct from the Department.

INVENTORIES.

1007. Inventories must be made by the marshals, attorneys, and clerks of the different courts and submitted to the Department on the 1st day of January and July, respectively, of each year, and must include all supplies furnished by the Department of Justice or by authority of said Department, as follows:

1. Typewriters (make and serial number of typewriters must be stated), letterpresses, furniture (when not furnished by the custodian of public building), and files.
2. Stationery, paper, pencils, pens, ink, mucilage, paste, etc.
3. Envelopes and letter heads.
4. Blank forms.
5. Dockets and law books.

1008. Forms 42 A (marshals), 43 A (attorneys), and 44 A (clerks) have been provided for the purpose of these inventories.

1009. Inventories are also required from commissioners in the Indian Territory. Form 148 A has been provided for inventories of such commissioners.

1010. The blank forms for inventories will be sent to the various officials about June 1 and December 1 of each year, without requisition.

1011. The forms furnished by the Department must be used exclusively in making up inventories.

SALES OF OLD MATERIALS.

[1897. Department Circular No. 6.]

FORM AND REGULATIONS FOR RENDERING ACCOUNTS FOR SALES OF OLD MATERIALS,
ETC.TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF THE TREASURY,
Washington, D. C., January 9, 1897.*To Disbursing and Other Officers:*

1012. The following form and regulations are hereby prescribed for keeping and rendering accounts for the sales of old materials, condemned stores, supplies, or other public property of any kind, and a *substantial* compliance therewith is enjoined upon all officers whose duty it may be to make sales and render accounts for the proceeds.

R. B. BOWLER, *Comptroller.*

Approved:

J. G. CARLISLE, *Secretary.*

The United States in account with _____, on account of sale of _____ condemned Government property authorized by _____, dated _____, 189—.

, 189	By amount of gross proceeds of sale .....	.....	.....	000	00
	To disbursements:				
	Auctioneer's fees	00	00	.....	.....
	Advertising	00	00	.....	.....
	Inspection	00	00	.....	.....
	Drayage	00	00	.....	.....
	To amount to be carried into the Treasury to the credit of...	00	00	.....	.....
		000	00	000	00

I hereby certify that the above statement is true and correct, and represents the actual amount received and expended.

NOTE.—This statement must be accompanied by a complete inventory of the property sold, the amount received for each article or lot, and also with the sub-vouchers, properly receipted, covering the expenses of sale.

LAW.

1013. "That from the proceeds of sales of old materials, condemned stores, supplies, or other public property of any kind, before being deposited into the Treasury, either as miscellaneous receipts on account of 'proceeds of Government property,' or to the credit of the appropriations to which such proceeds are by law authorized to be made, there may be paid the expenses of such sales, as approved by the accounting officer of the Treasury, so as to require only the net proceeds of such sales to be deposited into the Treasury, either as miscellaneous receipts or to the credit of such appropriations as the case may be." (Act of June 8, 1896.)

1014. "SEC. 3621. Every person who shall have moneys of the United States in his hands or possession, and disbursing officers having moneys in their possession not required for current expenditure, shall pay the same to the Treasurer, an assistant treasurer, or some public depository of the United States, without delay, and in all cases within thirty days of their receipt. And the Treasurer, the assistant treasurer, or the public depository shall issue duplicate receipts for the moneys so paid, transmitting forthwith the original to the Secretary of the Treasury, and delivering the duplicate to

the depositor: *Provided*, That postal revenues and debts due to the Post-Office Department shall be paid into the Treasury in the manner now required by law." (Act May 28, 1896, section 5.) See sections 1144, 1145, 3672, 5491, 5492, Rev. Stat.; acts July 5, 1884 (23 Stat., 184), June 30, 1890 (26 Stat., 194).

INSTRUCTIONS.

1015. The expenses of sale payable from the gross proceeds are such as pertain directly to the sale in question, such as auctioneer's fees, cartage to place of sale, cost of inspection, if an inspector be hired for that purpose, etc.

1016. In making a deposit of the net proceeds required by law an explanation should be put on the certificate of deposit, or sent with it, so that it may be determined to what appropriation the money should be covered in. See sections 3618, 3692, Rev. Stat.; acts of June 22, 1874 (18 Stat., 200), June 23, 1874 (18 Stat., 217), March 3, 1875 (18 Stat., 388), March 3, 1875 (18 Stat., 410), June 18, 1878 (20 Stat., 163), February 14, 1879 (20 Stat., 288), August 5, 1882 (22 Stat., 296), March 3, 1883 (22 Stat., 590), July 13, 1892 (27 Stat., 145, section 7), August 15, 1894 (28 Stat., 313), March 2, 1895 (28 Stat., 908).

1017. When the proceeds of a sale of Government property are deposited, the certificate should show the kind of property sold. Judicial officers will, therefore, give the depositary the necessary information, so that the certificate may contain a memorandum such as "proceeds sale of old furniture," "old stove," "old typewriter."

1018. The information furnished by such memoranda is required by law to be included in the book of estimates sent to Congress.

1019. The act of June 8, 1896, authorizing the payment of expenses, "as approved by the accounting officers of the Treasury," incurred in the sale of old material, etc., from the gross proceedings thereof, and the payment into the Treasury of the net proceeds only, does not require that such expenses shall be so approved before payment, but simply that an itemized account thereof shall be rendered to the accounting officers for settlement as any other item of expenditure of Government funds. (3 Comp. Dec., 149.)

1020. The course authorized by the act of June 8, 1896, in the payment of expenses of sales of old materials from the proceeds thereof and the deposit into the Treasury of the net proceeds only, should be adopted in all cases, although there may be an appropriation available for the payment of expenses incurred in such sales. (3 Comp. Dec., 109.)

FORMS FOR UNITED STATES MARSHALS.

No.	Purpose for which used.
SALARIES, FEES, AND EXPENSES.	
19	Account current.
392	Certificate of United States attorney to accompany account current.
22	Abstract of vouchers.
26	Fees and expenses of field deputies in the service of warrants of arrest.
34	Fees and expenses of field deputies in the service of writs of venire.
54	Fees and expenses of field deputies in the service of writs of capias.
55	Fees and expenses of field deputies or office deputies in the service of subpoenas.
25	Fees and expenses in civil cases.
68	
20	Affidavit and receipt of field deputy.
13	Receipt blank.
11	Certificate of guard used in transporting prisoners.
12	Receipt of stationary guard and certificate of deputy.

Forms for United States marshals—Continued.

No.	Purpose for which used.
SALARIES, FEES, AND EXPENSES—continued.	
21	Abstract of account of field deputy, marshal, or office deputy.
192-3	Expenses of marshals and office deputies when absent from official residence on official business other than the service of process.
194	Fees and expenses of marshals and office deputies in the service of criminal process.
195	Fees and expenses of marshals and office deputies in the service of civil process.
69	Affidavit and receipt of marshal or office deputy.
6	Expenses of marshal, office deputy, or field deputy in transporting convicts to prison or penitentiary outside of State or Territory.
30	Certificate and receipt of guard employed by marshal or office deputy in transporting prisoners.
320	Cover for voucher of marshal or deputy.
324	Voucher for office expenses other than telegrams or long-distance telephone messages.
177	Voucher for telegrams.
178	Voucher for long-distance telephone messages.
125	Abstract of office expenses.
71	Receipt of clerk for earnings from individuals and corporations.
72	Statement of earnings from individuals and corporations (to be used only for uncollected earnings and collections on account of earnings for prior quarters).
7	Posse voucher.
319	Cover for posse voucher.
43	Receipt of jailer for United States prisoner.
FEES OF JURORS.	
14	Account current.
1	Pay roll of jurors.
29	Pay roll of jurors for use in those States and Territories in which jurors are entitled to 15 cents a mile for travel by stage or private conveyance.
FEES OF WITNESSES.	
15	Account current.
685	Pay roll of witnesses.
686	Pay roll of witnesses for use in those States and Territories in which witnesses are entitled to 15 cents a mile for travel by stage or private conveyance.
2	Actual expense account of salaried employees.
125	Abstract of disbursements.
SUPPORT OF PRISONERS.	
16	Account current.
4	Account of jailer for keeping prisoners.
250	Penitentiary accounts.
327	Pay roll of employees at United States jails.
324	Voucher for clothing furnished United States prisoners in United States jails.
3	Voucher for use of physician or druggist.
PAY OF BAILIFFS, ETC.	
17	Account current.
5	Voucher for bailiffs or criers.
8	Voucher for meals furnished jury.
24	Voucher for jury commissioner.
28	Voucher for district judge.
33	Voucher for circuit judge.
377	Certificate of clerk as to attendance of bailiffs and criers.
MISCELLANEOUS EXPENSES.	
18	Account current.
324	Voucher for miscellaneous expenses.
583	Services and expenses of interpreters.
674	Services and expenses of experts and special employees.
9	Abstract to accompany account current.
315	Affidavit of publisher.
MISCELLANEOUS FORMS.	
10	Deputy United States marshal's oath of office.
23	Marshal's bill of costs in cases between individuals and corporations.
31	Deputy marshal's commission.
32	Report of service of process by deputy.
35	Bill of sale of registered vessel.
36	Bill of sale of enrolled vessel.
37	Bill of sale of licensed vessel.
38	Personal notice of attachment.
39	Public notice of attachment.
40	Permit to see prisoner in jail.
41	Remand of United States prisoner to custody of jailer.
42	Order to jailer to deliver United States prisoner to deputy marshal.
52	Subpoena ticket.
58	Summons for juror.
61	Notice of seizure in admiralty.
62	Notice of sale in admiralty.
68	Marshal's receipt for deposit to cover costs.
159	United States marshal's deed.

Forms for United States marshals—Continued.

No.	Purpose for which used.
MISCELLANEOUS FORMS—Continued.	
160	Certificate of purchase.
176	Notice of marshal's sale.
184	General receipt.
222	Monition.
249	Requisition for advance of funds.
282	Return of service of writ.
300	Subpoena ticket—duces tecum.
373	Indemnifying bond.
374	Personal indemnifying bond.
450	Commitment card.
451	Release card.
460	Appointment of custodian.
465	Return on unserved process.
498	Bond in admiralty.
498	Certificate for service of copy.
509	United States commissioner's release card.
510	Jailer's release card.
570	Return of service of process.
644	Mittimus.
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PART TWO.

INSTRUCTIONS TO UNITED STATES DISTRICT ATTORNEYS.

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APPOINTMENT, OATH OF OFFICE, ETC.

APPOINTMENT.

1021. The commission of a person appointed to the office of United States attorney will be forwarded to him by the appointment clerk of the Department of Justice, with a letter fixing the place of the appointee's official residence.

OATH OF OFFICE.

1022. The appointee should acknowledge receipt of the commission and forward to this Department a certified copy of his oath, as it appears upon the minutes of the court, and state the date upon which he enters upon duty.

1023. The form of the oath is prescribed by section 1757, Revised Statutes, and must be taken and subscribed by the appointee before entering upon the duties of his office.

1024. If the oath is not taken in open court, it should be executed in duplicate, the original filed with the clerk of the district court, and the duplicate forwarded to this Department.

OFFICIAL RESIDENCE.

1025. Section 8 of the act of May 28, 1896, provides that—

The Attorney-General is authorized to fix and declare the place of the official residence of the district attorney and of each of his assistants: *Provided*, That the said assistants must be residents of the districts for which they are appointed.

1026. It evidently was the intention of Congress in enacting this provision that the official residence of each district attorney should be fixed with regard to convenience, dispatch, and economy in the public business.

TERM OF OFFICE.

1027. Attention is invited to the act of June 24, 1898 (30 Stat. L., 487), which provides as follows:

That the attorneys and marshals of the United States, including the District of Columbia and the Territories, shall continue to discharge the duties of their respective offices, unless sooner removed by the President, until their successors shall be appointed and qualify in their stead. But they shall be appointed and commissioned for the term of four years as now provided by law.

1028. SEC. 2. That in case of a vacancy in either of said offices, the district court of the United States for the district where such vacancy exists, the supreme court of the Territory, and the supreme court of the District of Columbia may appoint persons to exercise the duties of such offices within their respective jurisdictions until such vacancy shall be filled.

SALARY.

1029. Section 6 of the act of May 28, 1896, provides—

That on and after the first day of July, eighteen hundred and ninety-six, all fees and emoluments authorized by law to be paid to United States district attorneys and United States marshals shall be charged as heretofore, and shall be collected, as far as possible, and paid to the clerk of the court having jurisdiction, and by him covered into the Treasury of the United States; and said officers shall be paid for their official services, which, in the case of district attorneys, shall include services in the circuit courts of appeals of their respective circuits wherever sitting, salaries and compensation hereinafter provided and not otherwise. * * *

1030. Section 7 of said act provides—

That the United States district attorney for each of the following judicial districts of the United States shall be paid, in lieu of the salaries, fees, per centums, and other compensations now allowed by law, an annual salary. * * *

1031. The salaries of district attorneys and assistant district attorneys will be paid monthly by the Department of Justice, in accordance with section 16 of said act.

1032. Salary vouchers will be forwarded from time to time by the disbursing clerk, and must be executed and returned to him not later than the end of the then current month.

1033. Section 18 provides—

That any officer whose compensation is fixed by sections six to fifteen, inclusive, of this act who shall directly or indirectly demand, receive, or accept any fee or compensation for the performance of any official service other than is herein provided, or shall willfully fail or neglect to account for or pay over to the proper officer any fee received or collected by him shall, upon conviction thereof, be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment, at the discretion of the court, not exceeding five years, or by both such fine and imprisonment.

1034. Section 1761, Revised Statutes, provides as follows:

No money shall be paid from the Treasury, as salary, to any person appointed during the recess of the Senate to fill a vacancy in any existing office, if the vacancy existed while the Senate was in session and was by law required to be filled by and with the advice and consent of the Senate, until such appointee has been confirmed by the Senate.

1035. Section 1884, Revised Statutes, provides—

When any officer of a Territory is absent therefrom, and from the duties of his office, no salary shall be paid him during the year in which such absence occurs, unless good cause therefor be shown to the President, who shall officially certify his opinion of such cause to the proper accounting officer of the Treasury, to be filed in his office.

1036. Territorial officers must accompany their salary receipts with a certificate in the following form:

I,, of the Territory of, do hereby certify that I have not been absent from said Territory and from the duties of my office during the period covered by the annexed receipt, without leave from the Department of Justice.

.....
.....

1037. Extra compensation can not be allowed a district attorney for services which are performed in the course of his official employment.

1038. The act of March 2, 1889, providing that all legal services connected with the procurement of title to sites for public buildings shall be rendered by the United States district attorneys, not only requires such services to be performed by the district attorney, but prohibits the payment of compensation to another attorney employed for the purpose.

ACCOUNTS.

EXPENSES OF TRAVEL AND SUBSISTENCE.

1039. Section 8 of the act approved May 28, 1896, provides:

That the necessary expenses for lodging and subsistence actually paid, not exceeding four dollars per day, and actual and necessary traveling expenses of the district attorney and his assistants, while absent from their respective official residences and necessarily employed in going to, returning from, and attending before any United States court, commissioner, or other committing magistrate, and while otherwise necessarily absent from their respective official residences on official business, shall be allowed and paid in the manner hereinafter provided.

1040. Actual expense accounts of attorneys and assistant attorneys must be made out and rendered quarterly and in duplicate. Such accounts must include all charges for expenses during the quarter covered by the account, be fully itemized, the items entered according to the dates thereof, and the dates given on the left-hand margin. Accounts must be transmitted to the Department of Justice within twenty days after the close of the quarter.

1041. The quarters of the fiscal year end September 30, December 31, March 31, and June 30.

1042. The accounts of district attorneys should be made out on Forms 137 and 139. Forms 138 and 140 have been provided for the accounts of assistant district attorneys.

1043. Such accounts, when properly made out and verified, must be presented to the circuit or district court for approval, as required by the act approved February 22, 1875. Forms 139 and 140 have been provided for the verification and approval of the accounts of district attorneys and assistant district attorneys, respectively.

1044. No item is to be charged as an expense until the amount thereof has been actually paid.

1045. After approval by the court, the original accounts, together with the original vouchers, will be forwarded to this Department, and the duplicates, together with the duplicate vouchers, will be filed in court.

1046. Seals to copies of orders approving accounts are required, but seals of clerks to affidavits and to copies of orders relative to subvouchers are not required and charges therefor are not allowed.

1047. Explanations to suspensions made in an account by the Auditor for the State and other Departments should not be sent to the Department of Justice, but should be sent directly to the Auditor.

1048. Responses to all calls from the Department of Justice for information relative to accounts should be made in duplicate. Such responses should always be promptly forwarded, in order that the Department may comply with the requirements of the act of July 31, 1894.

1049. Where expenses are charged the accounts must show the object of each trip.

1050. Receipts for board and lodging must be furnished, showing dates for which charge is made, and the first and last meal or lodging.

1051. Wherever lodging is had a receipt must be taken.

1052. Receipts for team hire and stage fare are required.

1053. Charges for transportation fare must show the points from and to which travel was made, and the account must be so itemized that its correctness may be readily verified by the Department. If the district attorney or his assistant shall remain at a place upon private business, the resulting expenses must be borne by himself.

1054. Receipts for railroad fare, sleeping-car fare, or for single meals, are not required. If more than one meal is taken at the same place, however, a receipt should be furnished, unless the meals were taken at a restaurant where it was impracticable to obtain a receipt, in which case explanation of the matter should be made in the account.

1055. Necessary portage, not exceeding 25 cents a day, while traveling by railroad will be allowed, but no allowance will be made for tips to waiters.

1056. Whenever it becomes necessary for the district attorney or his assistant to travel outside of his district, permission must be obtained from the Attorney-General, and the account covering the expenses of such trip must refer to the date of letter granting such permission. In his communication to the Department the district attorney will state the necessity for the trip.

1057. When a district attorney appears in the circuit court of appeals, at a place other than his official residence, to argue a case on behalf of the Government, his expenses should be included in his regular quarterly account.

1058. When travel is begun from any other place than official headquarters (the attorney not being at such place on official business) expenses can not be charged in excess of what it would have cost if travel had been made directly from the official headquarters.

1059. The maximum charge for lodging and subsistence, while traveling on official business, can not exceed \$4 for any day during the trip, and when such expenses amount to less than \$4 on one day, and more than \$4 on the succeeding day, the expenses can not be averaged so as to charge \$8 for the two days. (See 4 Comp. Dec., 418.)

1060. Ordinarily the cost of lodging incurred by an employee while traveling will be regarded as pertaining to the day in which the night for which the lodging was procured began. (7 Comp. Dec., 338.)

1061. Under section 8 of the act of May 28, 1896, authorizing payment to a district attorney of his "necessary expenses for lodging and subsistence actually paid, not exceeding \$4 per day, and actual and necessary traveling expenses," the expense of a berth in a sleeping car will be allowed as a traveling expense and not as expense for lodging. (3 Comp. Dec., 386.)

1062. A district attorney or assistant district attorney is not entitled to reimbursement for the necessary expense incurred in verifying his account. (See 3 Comp. Dec., 646 and 4 Comp. Dec., 494.)

CLERK'S EXPENSES.

1063. *When authorized by the Attorney-General*, the expenses of travel and subsistence of a clerk to a district attorney while attending with the attorney a term of court held at a place other than that of the official residence of the attorney are properly payable as a part of the necessary expenses of the district attorney's office. (3 Comp. Dec., 253.)

1064. When it is found necessary, and to the best interest of the Government, that the district attorney's clerk should accompany him to any term of court away from official headquarters, application for authority to incur this expense must be made in advance, with a statement of the facts giving rise to the necessity therefor, in each case. An itemized statement of the expenses of the clerk, accompanied by receipts, should be included in the quarterly expense account of the district attorney. The charge for subsistence of the clerk must not exceed \$2 per day.

1065. Permission granted to a district attorney to take his clerk with him to one term of court must not be construed as authorizing the district attorney to incur a similar expense for his attendance upon a different term of court; but authority in advance must be obtained in each individual case. The appropriation for salaries and expenses will warrant the Attorney-General in granting the request of a district attorney to take his clerk with him to a term of court only in exceptional instances.

OFFICE EXPENSES.

1066. Section 14 of the act approved May 28, 1896, provides:

That the necessary office expenses of the district attorneys and marshals shall be allowed when authorized by the Attorney-General.

1067. District attorneys must therefore obtain authority from the Attorney-General before incurring any office expense. Each application for authority to incur such expense must state the nature of the expense and the *facts* giving rise to the necessity therefor. If the total amount involved be in excess of \$10 the application must be accompanied by competitive bids.

1068. When credit is claimed in the account of a district attorney for an expense which has been authorized by the Attorney-General, reference should be made to the date of the letter of authorization.

TELEGRAMS AND LONG-DISTANCE TELEPHONE MESSAGES.

1069. The instructions contained in paragraphs 705 to 723 apply also to district attorneys. Use Form 177 for telegrams. This form should be completely filled out and receipted. An exact copy of each telegram should be furnished. Form 178 should be used in rendering accounts for long-distance or out-of-town telephone messages, for which the company makes a charge in addition to the regular rental.

ASSISTANT DISTRICT ATTORNEYS.

APPOINTMENT.

1070. Section 8 of the act of May 28, 1896, enacts:

That whenever, in the opinion of the district judge of any district, or the chief justice of any Territory and the district attorney, evidenced by writing, the public interest requires it, one or more assistant district attorneys may be appointed by the Attorney-General; but such opinion shall state to the Attorney-General the facts as distinguished from conclusions, showing the necessity therefor. Such assistant district attorneys shall be paid such salary as the Attorney-General may from time to time determine as to each, which shall in no case exceed two thousand five hundred dollars per annum.

1071. Applications for the appointment of assistant district attorneys must state "the facts as distinguished from conclusions" which necessitate the employment. The following information also must be given:

- (1) Name and age of proposed appointee.
- (2) Qualifications for the position.
- (3) Proposed rate of compensation.

OATH OF OFFICE.

1072. Before entering upon the duties of his office, an assistant district attorney must take the oath of office prescribed by section 1757, Revised Statutes, and a copy thereof should be forwarded to the Department of Justice.

DUTIES AND ACCOUNTS.

1073. In the performance of their official duties and the rendition of their accounts assistant attorneys will be guided by the instructions herein to United States district attorneys.

1074. The accounts of assistant district attorneys, however, must include only necessary expenses for lodging and subsistence, and actual traveling expenses. Telegrams and telephone messages sent by an assistant are office expenses and must be paid for by the district attorney and included in his accounts. Office expenses must *not* be included in an assistant's account. Expenses of a district attorney's clerk come under the head of office expenses.

1075. An assistant to a United States district attorney is required to assist the attorney in performing the duties of his office, and one person can not claim the compensation of both offices. (1 Comp. Dec., 184.)

SPECIAL ASSISTANT UNITED STATES ATTORNEYS.

APPOINTMENT.

1076. Special assistants to the district attorneys, and special assistants to the Attorney-General, are appointed by the Attorney-General, when necessary, under section 366, Revised Statutes.

OATH.

1077. Every person appointed special assistant United States attorney or special assistant to the Attorney-General, should, before entering on the duties of his office, take the oath of office prescribed by section 1757, Revised Statutes United States, and forward same at once to the Department of Justice.

ACCOUNTS.

1078. Accounts should be rendered over the signature of the claimant, whether the amount of compensation claimed is stipulated in the

appointment or is to be determined by the Attorney-General. Form 598 should be used.

1079. Accounts must set forth in chronological order the services rendered and the charges made therefor (dates being given on left-hand margin).

1080. If, on the 30th day of June next after the attorney's appointment, the services to be rendered by him are not completed, an account must be rendered for all services to and including that date.

1081. An account should be rendered at the close of each fiscal year for the full amount of compensation claimed for all services rendered during that year.

1082. Each fiscal year ends June 30, and no one account should include services rendered in two or more fiscal years.

1083. Immediately upon the completion of the services for which the attorney was employed, his final account should be forwarded to the Department.

1084. If, under the terms of the employment, actual expenses are allowed, an account thereof should be rendered in accordance with the following directions, which account should be annexed to and made a part of the account for services:

1085. Expense accounts should be fully itemized, the items being entered according to the dates thereof, and the dates given on the left-hand margin.

1086. Such accounts must be verified by the affidavit of the claimant, and vouchers furnished wherever possible, or explanation made if it is impracticable to furnish vouchers for any items.

1087. Vouchers are not required for railroad fare, or for single meals, but the points between which travel is made must be stated, and the place at which the meal is taken.

1088. Receipts for board and lodging must be furnished showing dates for which charge is made and the first and last meal or lodging.

1089. If telegrams are sent or received, on official business, they must be paid for at Government rates, a receipt for the charges furnished, and a copy of the telegram attached to the account.

1090. Do not pay witnesses, as their fees are payable by the marshal.

1091. The employment of stenographers to take testimony, experts, and interpreters, the printing of records and briefs, the cost of furnishing or collecting evidence, and other expenses payable from the appropriation "Miscellaneous expenses, United States courts," must not be incurred without express authority from the Department. Such expenses, when authorized, will be paid by the marshal under instructions from the Department.

1092. Section 8 of the act of May 28, 1896, makes exclusive provision for the appointment and compensation of assistants to aid district attorneys in the performance of the ordinary and usual duties of the office, and a special assistant can be employed only to assist in the conduct of special cases. (4 Comp. Dec., 490.)

DISTRICT ATTORNEYS' CLERKS.**APPOINTMENT.**

1093. Section 15 of the act approved May 28, 1896, provides—

That the district attorney of any judicial district, when the facts showing the necessity therefor are certified by the district judge to the Attorney-General, may, with the approval of the Attorney-General, and no longer than such approval lasts, employ necessary clerical assistance at such salary or salaries as shall be from time to time fixed by the Attorney-General.

1094. When a district attorney finds it necessary to employ a clerk in his office he must make application to the Attorney-General for authority to do so, which application must give the following information:

1. Full name of the proposed employee.
2. Present occupation, and qualifications for the position—especially whether the proposed appointee is a stenographer qualified to report testimony in court.
3. State, briefly and plainly, the circumstances giving rise to the necessity for such employment.
4. Proposed rate of compensation per annum.

OATH.

1095. It is suggested that before entering upon his official duties a person appointed clerk to a district attorney take an oath of office under section 1757, Revised Statutes, and forward same to this Department.

SALARY.

1096. The disbursing clerk of the Department of Justice will forward from time to time for approval, or disapproval, vouchers for the salaries of clerks employed under the above provision of law. District attorneys are directed to give such vouchers personal attention. They must scrutinize the same carefully, and if they are correct in time of service, names, and amounts, approval should be indorsed thereon. They should be signed by the clerks and returned promptly to the disbursing clerk by the last day of the then current month.

1097. If the term of office of any clerk has expired, or he has been suspended or dismissed from the service, or if, for any other reason, he is not entitled to be paid the amount entered in said voucher, the same shall be returned to the disbursing clerk, without approval, together with a statement of the facts, giving the date upon which such clerk's connection with the service terminated, and such other data as may be desirable.

1098. No voucher shall be approved for any time not actually

employed, other than or in excess of thirty days, in any one year. Notice must be given immediately to the Department by the district attorney of the separation of his clerk from the service from any cause.

LEAVE OF ABSENCE.

1099. Attorneys must obtain permission from the Attorney-General before absenting themselves from their respective districts for any purpose.

1100. Leave of absence to attorneys' clerks, not to exceed thirty days in any calendar year, will be allowed. Attorneys may grant such leave at times when it will not interfere with public business, and must at once advise the Department.

1101. In addition to the annual leave provided for in the preceding paragraph, attorneys may, in cases of sickness or unavoidable incapacity, grant sick leave, not exceeding thirty days in any calendar year, to their clerks.

1102. Thirty days' annual leave and thirty days' sick leave of absence in a year must not be granted to each of a succession of persons holding the same position, but a person who is appointed after the beginning of a year should be granted leave only in proportion to the time of his actual service, i. e., at the rate of two and one-half days per month, as such leave accrues.

1103. Attorneys must not approve the salary voucher of any clerk who has been absent from duty, except as above stated, but such voucher must be returned to the disbursing clerk with a statement of the facts in regard to the matter.

MISCELLANEOUS EXPENSES, UNITED STATES COURTS.

GENERAL DIRECTIONS.

1104. The appropriation "Miscellaneous expenses, United States courts," is by law placed under the control of the Attorney-General, and no credit will be allowed a marshal in his accounts for disbursements from that appropriation unless such disbursements are authorized by the Attorney-General.

1105. No action should be taken which will result in the presentation of a claim under this appropriation unless specific authority for such action has been obtained from the Attorney-General, except in emergencies when it is impossible to obtain authority from the Department in advance, and in such cases the facts must be clearly set forth to the satisfaction of the Department. There is nearly always time, however, to communicate with the Department by telegraph.

STENOGRAPHERS TO TAKE TESTIMONY.

1106. The compensation of stenographers who may be employed, under authority of the Attorney-General, to take testimony in cases in which the United States is a party is payable from the appropriation "Miscellaneous expenses, United States courts." But, in order that payments by a marshal for such services may be allowed in his accounts, the expense must be authorized and the accounts must be approved by the district attorney. District attorneys must be careful to verify the number of folios charged before approving bills containing charges for transcribing testimony. Accounts of stenographers for taking and transcribing testimony must be supported by the affidavit of the person who performed the services.

1107. Where the Department has authorized the employment of a stenographer to a court or a judge thereof, or to the district attorney, the stenographer should take and make the necessary transcript of the testimony, in cases where such services on behalf of the Government may be necessary, without additional compensation.

1108. Stenographers should be employed only in cases wherein it is considered absolutely necessary and essential to have the testimony taken in order properly to protect the interests of the Government. Requests for authority to employ stenographers should state the following:

1. Title and nature of case or cases and circumstances which render the services of a stenographer necessary.
2. Rate of compensation per diem for taking the proceedings on the trial.
3. Probable duration of the employment.
4. Rate per folio for making transcript, if it is deemed necessary to have a transcript, and the number of copies required, and for whom.

1109. When authorized to employ a stenographer to do special work, the district attorney's own clerk is not to do the work. In case his salaried clerk can do the work, he must not ask for special authorization to employ someone, but must require his clerk to perform the service.

INTERPRETERS.

1110. The compensation of persons serving as interpreters on behalf of the Government is payable from the appropriation "Miscellaneous expenses United States courts."

1111. The necessity for the obtaining of authority for the employment of interpreters is the same as in the case of other expenses payable from this appropriation. Authority from the Attorney-General is essential to the allowance of accounts for interpreter services.

1112. Upon the approach of a term of court at which, in the trial of

cases, it will be necessary to employ interpreters, the district attorney should make application for authority to incur the necessary expense sufficiently in advance to admit of the receipt of a reply by mail prior to the time when the services will be needed. Such application should state the facts constituting the necessity for the employment, the probable duration thereof, and the proposed rate of compensation.

1113. It is the duty of the district attorney so to arrange for the trial of cases in which the services of an interpreter may be necessary that they may be disposed of consecutively at the commencement of the term of court, thus obviating unnecessary expense.

1114. The accounts of interpreters must be itemized and must bear indorsement of a certificate over the signature of the district attorney to the effect that the services were actually and necessarily rendered, and the marshal must certify that no payment was made to the claimant from the appropriation "Fees of witnesses, United States courts." Form 583 should be used for this purpose.

EXPERT SERVICES AND TESTIMONY.

1115. When, for any reason, it becomes necessary to employ a person in the capacity of an expert, the facts constituting the necessity for such employment must be communicated to the Department, with an application for authority to incur the necessary expense. Such application must also state—

(1) The title of the case and the character of the services which the expert will render.

(2) Name and present occupation of the proposed employee.

(3) Rate of compensation and probable duration of employment.

1116. The application shall be made sufficiently in advance to admit of the receipt of a reply by mail prior to the time when the services will be needed; or, if that be impracticable, the application should be by telegraph.

1117. The entire compensation of persons serving the Government as experts is payable from the appropriation for miscellaneous expenses of United States courts, upon the receipt of proper authority for their employment and payment.

1118. Experts are not entitled to receive, and must not be paid, witness fees or mileage, or reimbursement for actual expenses, from the appropriation "Fees of witnesses, United States courts."

1119. The accounts of experts must be itemized and must bear indorsement, over the signature of the district attorney, to the effect that the services were actually and necessarily rendered; and the marshal should certify that no payment has been made to the claimant from the appropriation "Fees of witnesses, United States courts." Where such accounts contain charges for Sunday per diems, the affidavit to the

account and the approval of the district attorney must state specially that services on such days were actually and necessarily rendered.

1120. The accounts of national-bank examiners and the expense accounts of persons in the Government service who may render services as experts must be supported by an affidavit including the statement that the claimant has not received, is not entitled to receive, and will not claim compensation for the services or reimbursement for the expenses from any other source.

1121. The accounts of experts should be rendered, in duplicate, on Form 674. If expenses are allowed, vouchers must be furnished, as far as practicable. Receipts for railroad fare, sleeping-car fare, or single meals are not required. Where expenses are charged, the object of the trip must be stated.

SPECIAL EMPLOYMENTS.

1122. Should necessity arise for the employment of a person to render services on behalf of the Government in connection with the conduct or investigation of a case in which the United States is or may be a party, authority for the employment must be obtained and the accounts of the employee must be rendered in the same manner as required in the case of an expert whose compensation is payable from the appropriation "Miscellaneous expenses, United States courts."

1123. A person employed in taking and certifying testimony on behalf of the United States may be allowed compensation in the discretion of the Attorney-General, payable from the appropriation "Miscellaneous expenses, United States courts," as an expense in "furnishing and collecting evidence where the United States is or may be a party in interest." (In re Gilliland, Comp. Dec., May 17, 1898.)

1124. Whether this evidence should have been obtained in the manner in which it was obtained rather than through officers like United States commissioners, or by securing the attendance of the witnesses in court, is a question for the determination of the Department of Justice. If the Attorney-General employs a special agency, the expense is as much an expense in furnishing evidence as would be the compensation of a person sent out to hunt up the witnesses. (*Id.*)

PRINTING RECORDS AND BRIEFS.

1125. The printing of records and briefs on behalf of the Government, in cases in which the United States is a party, may be paid, *when authorized by the Attorney-General*, from the appropriation "Miscellaneous expenses, United States courts."

1126. Applications for authority to have records or briefs printed must state the title of the case, and must be accompanied by competitive bids from two or more printers, showing rate per page for performing the work.

1127. Accounts for printing records or briefs must bear the official approval of the district attorney.

ABSTRACTS OF TITLE.

1128. If an abstract of title is needed by a district attorney, for use in condemnation proceedings, he should make application to the Department for authority to procure the same, and should forward with his application two or more competitive bids for furnishing the abstract.

1129. If the land is needed as a site for a public building (other than a life-saving station or a pierhead light) and the land is to be purchased, without resorting to condemnation proceedings, the grantor in each case must furnish, free of all expense to the Government, all requisite abstracts, official certifications, and evidences of title that the Attorney-General may deem necessary. (See act of March 2, 1889, 25 Stat. L., 941. Also see 7 Comp. Dec., 53.)

1130. The expense of procuring an abstract of title to land to be used as a site for a fortification is a proper charge against the appropriation made for the purchase of the site, if the abstract is needed by the United States attorney to assist him in examining the title, provided the land is to be purchased and not condemned. (See 3 Comp. Dec., 216.)

DUTIES.**LAWS RELATIVE TO DUTIES.**

1131. Section 771 of the Revised Statutes reads as follows:

It shall be the duty of every district attorney to prosecute in his district all delinquents for crimes and offenses cognizable under the authority of the United States, and all civil actions in which the United States are concerned, and, unless otherwise instructed by the Secretary of the Treasury, to appear in behalf of the defendants in all suits or proceedings pending in his district against collectors or other officers of the revenue for any act done by them, or for the recovery of any money exacted by or paid to such officers and by them paid into the Treasury.

1132. Provisions for appearance by district attorneys in actions against officers of either House of Congress for their official acts, and for the defense of such actions, are contained in the act of March 3, 1875 (chapt. 130, sec. 8, 18 Stat. L., 401).

1133. District attorneys may be required to furnish assistance or information in relation to the titles of public property within their districts, by section 355, Revised Statutes, and they are to render all legal services connected with the procurement of titles to sites for public buildings, other than life-saving stations and pier headlights, by a provision in the act of March 2, 1889 (25 Stat. L., 941).

1134. Provisions relating to the conduct by district attorneys of suits and proceedings arising out of laws governing national banks, in which the United States or any of its officers or agents are parties, are contained in section 380, Revised Statutes, and of suits for money due the Post-Office Department, in section 381, Revised Statutes.

1135. Provisions relating to the prosecution by district attorneys of proceedings for fines, forfeitures, or penalties for violations of revenue laws are contained in section 838, Revised Statutes.

1136. District attorneys are required to institute prosecutions against all persons violating any of the provisions of chapter 7 of Title LXII, "Crimes," by section 1982, Revised Statutes.

1137. District attorneys are required to inquire into and take proceedings for violations of section 3490, Revised Statutes, relating to the making of false claims against the United States by section 3492, Revised Statutes.

1138. The duties of district attorneys in prize causes, to represent and protect the interests of the United States and the captors, and to make to the Secretary of the Navy statements of the condition of such causes pending, are prescribed by section 4619, Revised Statutes.

1139. In all States and Territories where there are Indian reservations or allotted Indians, district attorneys are required to represent them in all suits, by a provision of the act of March 2, 1893 (chapt. 209, 27 Stat. L., 631).

1140. Various official statements, reports, and returns are required from district attorneys by sections 772 to 775, Revised Statutes.

1141. Under section 6 of the act of May 28, 1896, district attorneys are required to render services in the circuit courts of appeals of their respective circuits, wherever sitting, without compensation other than their respective salaries.

LETTERS SENT AND RECEIVED.

1142. All official letters received will be preserved as public property and chronologically arranged, filed, and indexed.

1143. All letters written from the office of an official nature, in any way relating to a matter pending therein, should be press copied; and for this purpose separate letter-press books might be kept for letters addressed to heads of departments at Washington, miscellaneous matters, and copies of telegrams. These books should be indexed according to the subject-matter as well as names.

OFFICIAL PAPERS AND DOCUMENTS.

1144. All papers and documents used by or coming to the district attorney or his assistant during the progress of a suit and relating thereto must be properly filed and kept with the other papers relating to the cause.

GOVERNMENT PROPERTY.

1145. When he goes out of office all letters and copies of letters relating to official business, official papers, books, blanks, stationery, type-

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writers, and other public property must be delivered to his successor. He will make out an invoice of such property and deliver it to his successor, take duplicate receipts from him, one of which he will forward to this Department.

1146. Directions for the guidance of district attorneys as to blanks, letter heads, stationery, and office supplies are printed on pages 148, 149, and 150 ante.

SEMIANNUAL INVENTORIES.

1147. Semiannual inventories must be taken and forwarded to the Department in the manner indicated on page 150 ante.

CHINESE CASES.

1148. Attention is invited to the first section of the act of March 3, 1901 (chap. 845, 31 Stat. L., 1093), which reads as follows:

That it shall be lawful for the district attorney of the district in which any Chinese person may be arrested for being found unlawfully within the United States, or having unlawfully entered the United States, to designate the United States commissioner within such district before whom such Chinese person shall be taken for hearing.

1149. Any designation of a commissioner under the provisions of the above section should be reported to the Attorney-General at once.

UNITED STATES CASES.

1150. The following instructions in relation to Government cases which may hereafter be taken to the United States circuit courts of appeals or to the Supreme Court of the United States by appeal, writ of error, or otherwise, are issued for the guidance of district attorneys:

DISTRICT AND CIRCUIT COURTS.

REPORTING DECISIONS, SENDING COPIES OF BRIEFS, ETC.

1151. Advise the Department promptly of the decision by the district and circuit courts of the United States of Government cases which are of sufficient importance to be taken, by either party, to the circuit court of appeals or to the Supreme Court for review. This report is entirely distinct from that required for the Attorney-General's annual report, from reports under the act of March 3, 1887, and from those required to be made to any other officer. It should state the question involved in the case and the decision, and be accompanied by copies of the briefs or lists of authorities used by both sides at the trial.

CUSTOMS CASES.

1152. All customs cases must be reported *immediately* upon decision. Report of such cases should be made to the Secretary of the Treasury,

and a copy thereof forwarded to this Department. It is important that this rule should be observed, in order that when a case is decided adversely to the Government there may be sufficient time in which to consider the advisability of directing an appeal within the *thirty* days allowed by the act of June 10, 1890.

APPROVAL OF PLEADINGS.

1153. Duplicate copies should be sent to the Department of all bills in equity, declarations, and other pleadings which require the approval of the Attorney-General, in order that one copy may be retained for the Department files, and, if afterwards printed, at least two copies should be sent to the Department.

SUITS AGAINST THE UNITED STATES.

1154. In suits brought against the United States under the act of March 3, 1887 (chap. 359, 1 Supp. R. S., 559), it is the duty of the plaintiff to serve a copy of the petition upon the United States attorney in the district where the suit is brought and mail a copy of the same by registered letter to the Attorney-General, whereupon it is the duty of the district attorney to appear and defend the interests of the Government. In order that the interests of the Government may be fully protected, the district attorney should promptly notify the Attorney-General of the institution of such suit, that the necessary data in the Executive Departments may be furnished. When the findings of fact and the law applicable thereto have been filed in such case the district attorney should promptly transmit to the Attorney-General certified copies of all the papers filed in the cause, with a transcript of the testimony taken, the written findings of the court, and his written opinion as to the same, whereupon instructions will be given as to the desire of the Government with reference to having the case reviewed on appeal or by writ of error.

1155. When the reports sent under paragraph 1151 are of cases brought against the United States under the act of March 3, 1887, the first page of the report should contain, in *red ink*, the words "concurrent jurisdiction."

1156. In cases under the foregoing act the appellate court, in case of appeal, will not go beyond the findings filed by the trial court to ascertain the facts. The district attorney will, therefore, in every case, request findings which set out in the fullest detail all facts out of which the claim arises, so as to inform the appellate court fully of the act or transaction constituting the basis of the claim. In case of refusal by the court to make finding upon any material question of fact, as so requested, exceptions should be reserved.

1157. The record upon appeal or writ of error from decisions under this jurisdiction should not contain the evidence. (*Chase v. U. S.*, 155 U. S., 489.)

CIRCUIT COURT OF APPEALS.

REPORTS; SENDING BRIEFS, ETC.

1158. When Government cases are taken to the circuit court of appeals, advise the Department thereof at once, stating from what court, and, if by the United States, by the direction of what officer the appeal, writ of error, etc., was taken; when the case was docketed for review; its numbers in the circuit court of appeals and in the lower court; and the question and amount involved. Send a copy of the record, when printed, and of each brief, etc., when filed. When the case is decided send promptly a copy of the opinion of the court, with any recommendation or suggestion you may desire to make.

PRINTING OF RECORDS.

1159. Where the record is voluminous in any Government case, pending in any court, which is to be taken to the Supreme Court, arrangements should be made with opposing counsel for the printing of 25 extra copies thereof, so as to avoid the necessity for reprinting in the Supreme Court; the cost of the extra copies to be paid by the party taking the appeal to the Supreme Court.

SUITS AGAINST THE UNITED STATES.

1160. Paragraphs 1154 to 1157, ante, apply also to reports of cases in the circuit court of appeals.

SUPREME COURT.

CITATION; FORWARDING RECORD.

1161. Promptly furnish to the Department copies of citations served upon you in Government cases taken to the Supreme Court, *sending at the same time the briefs, etc., called for supra*. When directed to take an appeal or sue out a writ of error on behalf of the United States, notify the Department of the date of the allowance of the appeal or the suing out of the writ, and have the transcript of the record sent to the *Department* (not to the clerk of the Supreme Court), so that it may be examined before filing. The Supreme Court assents to this course as a sufficient compliance with rule 8, which requires the clerk of the lower court to transmit a transcript of the record.

BAIL IN CRIMINAL CASES.

1162. When the defendant in any criminal or habeas corpus case shall be admitted to bail, pending a decision by the Supreme Court, you will *at once* advise the Department, stating when the bail was given, and in what amount, in order that steps may be taken for a prompt hearing of the case.

BILLS OF EXCEPTIONS.

1163. In the preparation of bills of exceptions in cases to be taken to the Supreme Court, rule 4 of that court, which prohibits the allowance of any bill of exceptions "which shall contain the charge of the court at large to the jury in trials at common law upon any general exception to the whole of such charge," should be complied with.

1164. The bill should contain only a succinct statement of so much of the evidence, or such a statement of its tendency or effect, or of the facts proved, as may be necessary to explain the bearing of the alleged erroneous rulings and show the application of the portions of the charge excepted to. (See *Lincoln v. Claflin*, 7 Wall., 132, 136; *Hanna v. Mass.*, 122 U. S., 24; *Michigan Insurance Bank v. Eldred*, 143 U. S., 298; *Lees v. United States*, 150 U. S., 476.)

1165. As the Supreme Court will not review the action of the lower court in refusing to grant a motion for a new trial (*Blitz v. United States*, 153 U. S., 312, and cases cited), the opinion of the court on such a motion must not be made a part of the record (rule 8, section 2, not applying to such opinions). A copy of such opinion, however, is frequently of use in the preparation of the brief of the case in the Supreme Court, and should be sent to the Department with your report.

1166. You are directed to object to any bill of exceptions presented to you which is not made up in conformity with these instructions.

1167. A strict compliance with these instructions is directed, in order to save the expense of printing voluminous records and the time of the court and of counsel.

MANDATES.

1168. Applications should not be made by district attorneys to the clerk of the Supreme Court for mandates in Government cases. Mandates will be sent to district attorneys at the proper time by the Department.

APPROVAL OF ACCOUNTS.

1169. An act of Congress entitled "An act regulating fees, and for other purposes," provides for the approval by the court of the accounts of attorneys, clerks, and marshals in the presence of the attorney or his assistant. The same act requires the accounts of commissioners to be forwarded to the attorney to be by him submitted for approval in open court.

1170. The evident purpose of this legislation is that such accounts shall be carefully examined by the attorney or his assistant, and that full information shall be given to the court relative to such accounts, in order that no illegal charge or improper expense may be approved by the court.

1171. Each account should be carefully examined by the attorney or his assistant.

1172. When any part of an account is not approved by the court, the item or items not approved should be specified by the district attorney in a separate statement accompanying the account.

UNNECESSARY EXPENSES TO BE AVOIDED.

1173. It has been clearly shown that in many districts much unnecessary expense is incurred by reason of the issuance of alias and pluries writs of *capias* when there is no expectation of service, and upon writs of *scire facias* issued when there is no expectation of recovery. This should be avoided.

1174. It also clearly appears that much unnecessary expense is caused by the issuance of executions in criminal cases after returns of *nulla bona* on former writs, and by the issuance of executions when there is no expectation that anything will be realized.

1175. Section 1041, Revised Statutes, declares that a judgment of sentence imposing the payment of a fine or penalty may be enforced by execution against the property of the defendant in like manner as judgments in civil cases are enforced, but it does not require that an execution shall be issued in such case. A sound discretion should be exercised in regard to the issuance of executions, and attorneys are directed to prevent, as far as possible, all expense which would be caused by the issuance of executions when there is no reasonable expectation of realizing thereon.

1176. When the clerk of any United States court issues executions in criminal cases without being first requested by the attorney to do so, the attorney is directed to call the matter to the attention of the court and ask that the clerk be ordered not to issue such executions except upon such request.

1177. Attorneys should see to it that bonds taken by commissioners are sufficient to secure the attendance of defendants, and if any commissioner shall take bonds without sufficient sureties, the matter should be called to the attention of the court.

1178. When an insufficient bond is taken, it is usually forfeited, a *capias* is issued and served if the defendant can be found, a writ of *scire facias* is issued, copies of same made, the writ served, and proceedings had thereon in court. Unless the *capias* is promptly served, the witnesses in the case must be discharged until next term of court.

1179. The expenses caused by the forfeiture of such bonds are often very large, and in many cases the prosecution is abandoned because the defendants can not be found.

1180. Attention is invited to Department circular letter of March 24, 1898, relative to the matter of suits brought in United States courts on

forfeited bail bonds, or recognizances where such bonds are worthless. The letters received in response to this circular encourage the Department in the belief that a determined effort will be made by the courts and judicial officers of the various districts to save the Government the needless expense of such suits, and to compel the acceptance only of responsible sureties. It is the duty of the district attorney to adopt a course of action suited to the attainment of the desired ends.

1181. Frivolous and unnecessary prosecutions must be prevented. To this end attorneys are directed not only to scrutinize carefully the accounts of commissioners, but to prevent as far as possible the issuance of process by commissioners in such cases.

1182. If any commissioner shows a disposition to encourage such prosecutions, the matter should be promptly called to the attention of the court, and if any deputy marshal shall do so the marshal and the Attorney-General should be informed.

1183. As section 846 provides "that no account of fees or costs paid to any witness or juror upon the order of any judge or commissioner shall be so reexamined as to charge any marshal for an erroneous taxation of such fees or costs," it is necessary that the attorney shall, so far as possible, see to it that all orders for the payment of witnesses and jurors are correct, that witnesses are not to be allowed per diems for time spent in coming to or returning from court, and that neither a witness nor a juror residing at the place of holding court is allowed a per diem for a Sunday, holiday, or other day upon which he was not required to be present.

1184. The attorney should be very careful that only necessary witnesses are subpoenaed, and that all witnesses subpoenaed at the expense of the United States are discharged as soon as their attendance is no longer necessary. He should note in his witness's docket the date of attendance and discharge of each witness and furnish the same to the clerk of the court. He should assign (with the consent of the judge) a certain number of cases for trial for each day during the time allowed by the court for the trial of criminal business. In these assignments reference should be had to the witnesses in the causes, so that all cases in which any particular witness should appear may be put down for a specified day, so that when the witness appears all cases in which he is a witness should be disposed of and the witness discharged from further attendance.

1185. It has been shown that in many districts unnecessary witnesses are summoned on behalf of the United States, and that witnesses so summoned are allowed to remain or are kept in attendance much longer than necessary, thereby largely increasing the amounts paid them.

1186. Section 877 of the Revised Statutes provides that—

Witnesses who are required to attend any term of a circuit or district court on the part of the United States shall be subpoenaed to attend to testify generally on

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their behalf, and not to depart the court without leave thereof, or of the district attorney; and under such process they shall appear before the grand or petit jury, or both, as they may be required by the court or district attorney.

1187. Where the same person is a witness in two or more cases at any term of court the practice of issuing and serving upon him a separate subpoena in each case is contrary to this provision of law.

1188. District attorneys should see that the above section is complied with.

1189. Read also paragraphs 775 and 776, under the heading "Fees of witnesses."

1190. When a copy of any paper is needed for convenience in the transaction of business in the office of the attorney, such copy should be made by him or some one connected with his office.

1191. The clerk of the court should be requested to make only such copies as are needed and are required by law to be made by him.

1192. In many districts copies of subpoenas or subpoena tickets are made by clerks of court, and fees charged therefor. It has been held that when such copies or tickets are made by a clerk under an order of court he is entitled to charge fees.

1193. In every district wherein such an order is in force, the United States attorney is directed to call the attention of the court to paragraph 5 of section 829, Revised Statutes, and ask a revocation of such order.

1194. The following is a copy of said paragraph:

For serving a writ of subpoena on a witness, fifty cents; and no further compensation shall be allowed for any copy, summons, or notice for a witness.

1195. It is believed that Congress intended by that paragraph that the *marshal* should make such "copy, summons, or notice for a witness" whenever necessary to a proper service of a subpoena.

1196. Section 19 of the act of May 28, 1896 (29 Stat. L., 184), provides that:

Warrants of arrest for violations of internal-revenue laws may be issued by United States commissioners upon the sworn complaint of a United States district attorney, assistant United States district attorney, collector or deputy collector of internal revenue, or revenue agent or private citizen, but no such warrant of arrest shall be issued upon the sworn complaint of a private citizen unless first approved in writing by a United States district attorney.

1197. The Comptroller of the Treasury has decided that, within the meaning of the above proviso, all persons other than the officers mentioned in said proviso are private citizens.

1198. Section 3 of the act of March 3, 1901 (31 Stat. L., 1093), provides:

That no warrant of arrest for violations of the Chinese exclusion laws shall be issued by United States commissioners excepting upon the sworn complaint of a United States district attorney, assistant United States district attorney, collector, deputy collector, or inspector of customs, immigration inspector, United States

marshal, or deputy United States marshal, or Chinese inspector, unless the issuing of such warrant of arrest shall first be approved or requested in writing by the United States district attorney of the district in which issued.

1199. When any account of a United States marshal contains charges in cases arising under the internal-revenue laws, or Chinese exclusion laws, a certificate, in the form printed on the account current, must be furnished by the district attorney. A like certificate should be attached to United States commissioner's accounts which contain charges in such cases, and Amended Form 473 should be used for this purpose.

DOCKETS.

1200. The following dockets, for the official use of the district attorneys, will be furnished upon requisition:

Docket of criminal cases.

Civil docket.

Grand jury docket.

Witness docket.

Register of complaints.

1201. These dockets must be kept up to date.

1202. In the docket of criminal cases should be entered, from the time the grand jury passes upon a bill of indictment, every step taken in a criminal case until its final determination.

1203. In the civil docket the district attorney should make a brief entry of every pleading and proceeding in civil cases brought on behalf of, or against the United States, from the issuance of the præcipe to the conclusion of the case.

1204. In the grand-jury docket should be kept the names of defendants and of witnesses subpoenaed on behalf of the Government for appearance before the grand jury.

1205. In the witness docket should be entered the names and addresses of all witnesses subpoenaed on behalf of the Government in both civil and criminal cases. It should be kept from term to term, and contain the dates when witnesses are summoned to appear, when they reported and claimed attendance, and when discharged.

1206. In the register of complaints should be entered all complaints made to the office, either by officials or others, and whether prosecution is had or not. The docket should contain the names of persons referring the matter to the office, and, if prosecution be determined, the name of the person making affidavit for warrant of arrest, the date of so doing the nature of the offense charged, the residence of the defendant, and the names and addresses of such witnesses as are obtainable at the time of making the complaint. After the arrest the result of the hearing before the commissioner should be noted.

1207. When one volume is about exhausted, requisition should be made for another on Department Form 18 A.

TRANSCRIPTS OF DOCKET ENTRIES.

1208. The Department of Justice maintains a system of dockets in which a record is kept of the action of the courts, both Federal and State, in cases in which the United States is a party or has an interest.

1209. A circular letter in the following language was mailed to all United States attorneys on July 15, 1899:

1210. In order that a complete record of United States cases of the classes named below may hereafter be maintained in the Department, you are hereby instructed to report to the Attorney-General, as soon as it is possible to do so after the receipt hereof, upon the blank forms which will be furnished you for the purpose, the *full title*, number, and *docket entries* in each case in which the United States is a party or has an interest, now pending and undisposed of in your district, arising under the *customs laws*, *admiralty* and *maritime* causes, suits by or against the Government or any of its officers under the *land* and *mining* laws, prosecutions under the *national banking laws*, *criminal* cases of importance, *mandamus*, *injunction*, etc., proceedings, and suits by and against officers of the United States and persons acting under the authority of the United States, *habeas corpus* cases, United States cases pending in State courts, *Chinese* cases, and the more important cases of a *miscellaneous* character, pending in the district and circuit courts of the United States for your district (or district and supreme courts), or court of appeals, etc. (if in a Territory), in the United States circuit court of appeals for your circuit, arising in your district, and in the State courts from your district.

1211. With this communication are sent you copies of a blank form upon which the report above called for is to be made, together with copies each of blank Forms Nos. 9 and 10, upon which subsequent reports are to be submitted.

1212. You will also be expected to inform the Department (on Form No. 9) of the commencement of cases within any of the classes mentioned, and (on Form No. 10) of any recorded action of the court or the parties therein. The latter report must be sent in *weekly* as to cases in which any action has been taken.

1213. Cases hereafter arising must be reported to the Department at once on the docketing thereof on Form No. 9.

1214. Special reports by letter, as heretofore, will, in addition, be expected from you of the action taken in important cases, but such letters will not be considered as dispensing with the formal reports herein called for.

1215. A report is *not* desired of any prosecution for a violation of the internal-revenue laws, unless the particular case shall be taken to the circuit court of appeals, when a full report, as in other cases, must be forwarded.

1216. Original court docket numbers must be retained throughout all reports concerning any case. The reports from you as to each class of cases will constitute a series.

1217. Each series must be numbered consecutively, and all reports must be dated.

1218. Copies of the rules of the several courts named in this circular should be sent to the Department at once upon its receipt and as new additions are issued. Copies of the trial lists or calendars should also be sent as issued.

1219. A *strict* compliance with these instructions will be insisted upon.

1220. Under these instructions it became the duty of United States attorneys to report the title in full of each case of the classes enumer-

ated in the circular, its docket number, purpose, court in which pending, amount involved (if civil), and specific offense charged and section of the law violated, if criminal.

1221. The forms mentioned in the above circular have been superseded by Department Form No. 90—Docket, and Department Form No. 91—Docket.

1222. Form No. 90 must be used in reporting the commencement of suits. In reporting criminal cases, not only the section of the law violated but the specific offense charged must be stated. In civil suits, report the purpose of the suit and the amount involved.

1223. Form No. 91 must be used in reporting any further action taken in any of the cases already reported on Form 90. This report should be made *weekly* as to all cases in which any action has been taken.

1224. The following are examples of the manner in which these forms should be used:

DEPT. FORM NO. 90—DOCKET.

Report No.

SOUTHERN DISTRICT OF OHIO, WESTERN DIVISION,
May 1, 1902.

The ATTORNEY-GENERAL.

SIR: The following suits have been commenced in the district court, in which the United States is a party or has an interest:

Court docket No.	Title of cause.	When commenced.	Amount claimed.	Form and cause of action, or grounds of controversy.
305	U. S. v. John Doe.....	April 8, 1902,	indictment ..	Abstracting funds of national banking association. Sec. 5209, R. S.

Respectfully,

.....,
U. S. Attorney.

FORM 91—DOCKET.

SOUTHERN DISTRICT OF OHIO,
October 10, 1902.

The ATTORNEY-GENERAL.

SIR: The following entries have been made upon the docket in the case of U. S. v. John Doe, No. 305, pending in the district (western division) court for this district:

Date: October 5, 1902. Plea of guilty entered. Defendant sentenced to 5 years' imprisonment in the Ohio penitentiary, at Columbus, and to pay a fine of \$1,000.

Respectfully,

.....,
U. S. Attorney.

1225. United States attorneys should report the title in full of such cases as fall under the instructions of July 15, 1899. For example, it is not sufficient to say that the title of a case is "U. S. v. John Smith et al.," but the full names of all the defendants should be reported.

1226. While the Attorney-General's letter of July 15, 1899, seems sufficiently explicit, yet the following suggestions are made for the information of United States attorneys and other officials interested:

1227. All the information asked of United States attorneys as to docket entries should be easily obtainable from the dockets which they are required by Department instructions to maintain in their offices. (See paragraph 1409 of these instructions.)

1228. United States attorneys should also adopt some method whereby a record of the cases reported by them may be kept in their offices, so the entries in each case may be reported from time to time until concluded.

1229. When a case which has been once reported is finally disposed of—that is to say, when the time within which an appeal in a criminal case may be taken has expired, or, when the sentence of the court has been carried out, such as the defendant committed to jail to serve a term, or the fine imposed by the court paid, or both, and, in civil cases, when there shall be no appeal, or the judgment of the court shall be satisfied, a report of the fact should be made at once. In other words, it should be borne in mind by each United States attorney that it is his duty to report in each case when and by what means the proceeding is finally concluded, so that it may then be eliminated from the Department's dockets.

1230. The requirements of instructions to attorneys as to sending to the Department briefs in cases which are of sufficient importance to be taken by either party, to the circuit court of appeals or to the Supreme Court for review, must be literally complied with.

1231. The reports required by the instructions of July 15, 1899, are not intended to supersede any reports theretofore required of United States attorneys, but must be made in addition thereto.

1232. All transcripts of docket entries and all *criminal* term reports should be sent to the "Assistant Attorney in Charge of Dockets, Department of Justice, Washington, D. C." By this method unnecessary handling in the Department is saved and possible miscarriage avoided.

APPLICATIONS FOR EXECUTIVE CLEMENCY.

1233. Applications for Executive clemency are filed in the Department of Justice. When an application is received it is referred, with all the accompanying papers, to the United States attorney for the district in which the applicant was convicted for report as to the facts, and for his recommendations as to the expediency and justice of extending

clemency. He is also directed to obtain, if possible, a recommendation from the judge who presided at the trial. If the attorney did not himself appear in the case, he is directed to obtain the opinion of the attorney who did appear. In order to avoid misunderstandings and mistakes, judges should express their opinions over their own signatures.

1234. It is very important that a full report of the facts in each case be made, as it is upon this official statement that the President must largely depend for his knowledge of the circumstances surrounding the commission of the offense of which the applicant was convicted. The United States attorney is also relied upon to point out inaccuracies of statements contained in the petitions or other papers, and if he has any doubt of the genuineness of signatures he should investigate and report. This is especially true of applications purporting to contain the signatures of members of trial juries.

1235. In post-office cases, pension cases, and counterfeiting cases reports are secured by the Department of Justice from the Assistant Attorney-General for the Post-Office Department, the Commissioner of Pensions, and the Chief of the Secret Service Division of the Treasury Department, respectively; and such reports will be forwarded to United States attorneys and trial judges upon their request.

1236. Inasmuch as under the rules governing pardon cases only such cases as are recommended by the United States attorney or trial judge are submitted for the President's consideration, it is important that recommendations be clear and definite. If a commutation of sentence is recommended, the extent of the commutation should always be specified.

1237. Reports made by judges and attorneys are treated as confidential, and their contents are made known to no one except those through whose hands they pass officially, unless by the written permission of the official making the report. But petitioners and other persons interested are informed whether a report is favorable or adverse.

1238. As all original applications are at once referred for report, attorneys and judges are requested not to give applicants or their friends letters containing recommendations for clemency. Because of the danger of forgeries such letters can not be regarded as genuine until brought to the attention of the writers. The rule is that where a case is reported upon the papers will not be returned for further report unless new and important facts are developed. If, however, for any reason, judges and attorneys desire to make further reports in a case, the papers will be sent them upon receipt of their written request.

1239. It frequently occurs that in reporting upon applications for clemency, judges and attorneys recommend that pardon be granted just before terms of applicants expire in order that the rights of citizen-

ship may be restored to them. In this connection, attention is invited to the fact that under the rules the President will not consider such applications until after the applicant has been discharged from prison a considerable period and his good conduct is certified to by the people among whom he lives. (See Rule 9 of Rules Relating to Applications for Pardon.) The "considerable period" mentioned in the rule is understood to be about nine months. In reporting upon applications for restoration of civil rights district attorneys should state whether or not, in their opinion, the applicant has incurred any civil disabilities by reason of his conviction.

1240. Applications for pardon or commutation of sentence in army and navy cases are not considered by the Department of Justice, but by the War Department and the Navy Department, respectively. But when such cases have been favorably acted upon by these Departments and by the President the formal warrants of pardon are issued through the Department of Justice.

1241. Copies of the Rules Relating to Applications for Pardon should be in the hands of every district attorney, and will be furnished on request; but no blank forms are provided.

REGULATIONS OF THE SOLICITOR OF THE TREASURY.

1242. The following are regulations prescribed by the Solicitor of the Treasury under authority of sections 377 and 379, Revised Statutes, which must be fully and carefully complied with:

1243. No United States attorney will commence or defend a civil suit or proceeding in court, in the name or for the benefit of the United States, without instructions from this office or by direction of the Attorney-General by some person or court authorized by law so to direct, except in extraordinary cases, where some material interest of the United States would, in his opinion, be lost or endangered by delay; and, in such case, he will immediately report his action, with his reasons therefor.

1244. Whenever a United States attorney shall receive from a public officer, or shall in any other manner become possessed of information which shall lead him to believe that a trespass upon the property of the United States, or an infraction of its revenue or other laws, has been committed, he will immediately report such information to this office, with his opinion as to the propriety of instituting suit; or, in case the remedy of the United States would, in his opinion, be lost or endangered by delay, he may immediately commence a suit and report the same, with his reasons for such proceeding.

1245. On the receipt of papers on which to commence suit, the United States attorney will closely examine and see if there is any defect in them or if any explanation is wanted, and, if so, he will immediately report the same to this office, or to the person from whom the papers were received, with such suggestions as may seem to him proper. If, before the commencement or during the progress of a cause, questions shall arise in relation to which it may, in his opinion, be desirable that he should take counsel, he will state such questions, with the authorities bearing upon them, and also his own views.

1246. The commencement of all civil suits in which the United States is interested,

excepting suits for violation of internal-revenue laws, must be reported by United States attorneys to this office immediately after process shall be issued. At the end of every term of the district and circuit courts they will make a general report containing a list of all such suits commenced by them since the close of the last preceding term of the court, with a full statement of the cause of the action and all proceedings therein; and also of all such proceedings since the close of the last term in causes previously commenced, so as to furnish a full history of what has been done since the previous term, including any trial, verdict, decision, or judgment, and the issuing of any execution, with the time when issued. Blank forms for reports under this rule will be furnished from this office. The term reports should also include all criminal cases in which fines have been imposed, except those for violation of internal-revenue laws.

1247. As required by section 773 of the Revised Statutes, United States attorneys will, on the 1st of October of each year, transmit to this office reports showing all civil suits or proceedings in which the United States is a party or has an interest commenced, pending, and determined within their respective districts during the fiscal year (ending June 30) next preceding the date of such returns. These returns should be as full as practicable, and should be rendered punctually in order to enable the Solicitor of the Treasury to prepare his annual report required by the act aforesaid.

1248. In the report called for by this section it is required that the cases shall be classified as follows, viz:

- (a) Suits on Treasury transcripts.
- (b) Suits for fines, penalties, and forfeitures under the customs-revenue, navigation, and kindred laws, embracing suits of whatever nature arising out of frauds upon the customs.
- (c) Suits upon custom-house bonds.
- (d) Suits against collectors of customs, or other officers or agents of the United States, for refund of moneys exacted or for acts performed in the line of official duty.
- (e) Suits for fines, penalties, etc., under postal laws.
- (f) Miscellaneous suits, including those on forfeited recognizances and for the recovery of duties on imported merchandise, and all criminal cases in which fines have been imposed, excepting those under internal-revenue laws, and all other cases not embraced in the before-mentioned classes.

1249. It is required that all proceedings had during the fiscal year shall be noted, particularly all decrees or judgments, whether for or against the United States, and the nature, amount, and date of the same; and that all executions or orders of sale issued during that period shall be specified, with their date of issue and return and the nature of the marshal's return thereof.

1250. It is required also that all collections made during the year shall be reported, whether in respect of cases commenced during the year or of those instituted prior thereto.

1251. When a suit shall have been commenced, either by direction of a public officer or otherwise, it will be the duty of the United States attorney having such suit in charge to press the same to judgment at as early a day as possible consistent with the interest of the United States.

1252. In this connection the attention of United States attorneys is called to the provisions of section 957 of the Revised Statutes.

1253. In all such suits judgment must be demanded, and should be entered at the return term, unless defendants shall have taken all the steps required by this statute to obtain a continuance. United States attorneys are directed, as far as may be in their power, to see that its provisions are strictly complied with and enforced.

1254. Where a suit shall have been continued he will, in his next return, state upon whose motion and on what grounds the continuance was directed. No attorney will discontinue a suit, or consent to a dismissal thereof, or suspend proceedings, or agree that a judgment or decree shall be taken for a less amount than is claimed by the United States, without express instructions from the Solicitor of the Treasury, unless such attorney shall be of opinion that the suit has been improperly brought, that an error has been committed in the pleadings or proceedings which may be fatal or hazardous to the interests of the Government, or that the evidence in his power to produce is insufficient to support the action, and there shall not be sufficient time to communicate with and receive instructions, and, in all cases of such agreement, consent, discontinuance, suspension, or dismissal, the attorney will immediately report upon the facts and reasons for his action.

1255. As early as practicable, after the perfecting of judgment, execution will be placed in the hands of the marshal by the United States attorney, who will take duplicate receipts therefor, one of which he will transmit to this office. He will see that the marshal does his duty zealously in searching for property, in making levy, sale, and return, or in any other usual and proper efforts for the collection of the money. At the commencement of every term of the court the attorney will carefully examine and ascertain whether the marshal has properly returned all process placed in his hands the return of which is due. If he shall find that the proper return has not been made, it will be his duty to take prompt and efficient measures to compel a return, in which case he will report to this office the steps taken and their result. The vigilance of the United States attorney should not cease until every resource looking to the collection of the judgment is exhausted.

1256. United States attorneys will not receive payment of any demand due the United States except where specially authorized by law. If a defendant shall desire to make a payment previous to judgment, or at any time when the execution is not in the hands of the marshal, the proper course for him will be to cause the money to be deposited in the registry of the court, taking triplicate certificates therefor, stating particularly the name and the nature of the suit. On the receipt of two of these certificates the attorney will cause the proper allowance to be made, and will transmit one of the certificates, with a special report upon the subject, to this office and retain the other.

1257. The Solicitor of the Treasury having been designated by the Attorney-General to superintend the collection of all debts due to the Post-Office Department, including all penalties and forfeitures imposed on postmasters for failing to make returns or pay over the proceeds of their offices, and to direct suits and legal proceedings, and take all such measures as may be authorized by law to enforce the prompt payment thereof, these instructions are to be understood as applying to all suits or proceedings concerning debts, penalties, and forfeitures of the foregoing description. United States attorneys will accordingly report as to all such suits or proceedings, and also as to all prosecutions for mail depredations and penal offenses against the postal laws. In all cases, when practicable, the name of the post-office where the suit or prosecution originated should be stated.

1258. These instructions must not be understood as applying to suits arising under the internal-revenue laws, such suits being by law under the direction of the Commissioner of Internal Revenue.

MISCELLANEOUS.

1259. United States attorneys, marshals, and clerks will report to the Solicitor the existence and situation of any property belonging to the United States which is not in the care of any officer or agent of the Government, to the end that it may be

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protected and preserved. If either of them shall discover that any claim in favor of the Government, not in his hands, can be collected, he will report to the Solicitor, and recommend the best mode of proceeding. They will also report immediately to the Solicitor any default of a United States attorney, marshal, clerk, collector, or other person engaged in the collection of any debt due to the United States, or of the revenue, or in the disbursement of any money belonging to the Government.

1260. *Letters to this office will be on ordinary sized letter paper, with a margin on all sides of an inch in width, so as to admit of binding.*

1261. All letters will be inclosed in envelopes. Each distinct subject will be communicated in a separate letter, under a separate envelope. Such letters should be indorsed on the back thus:

(Name of party writing.)

(Official designation of writer.)

(Date of letter.)

(Brief of contents.)

1262. In all cases, when desired, triplicate receipts for moneys or papers received will be executed by the parties receiving them.

1263. In all cases where receipts, notices, returns, or other papers are required to be sent to the Solicitor's office, they must be forwarded by the first mail.

PART THREE.

INSTRUCTIONS TO CLERKS OF UNITED STATES COURTS.

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APPOINTMENT AND QUALIFICATION.

APPOINTMENT.

1264. Section 555, Revised Statutes:

A clerk shall be appointed for each district court by the judge thereof, except as otherwise provided for by law

1265. Section 3 of the act of February 6, 1889 (25 Stat. L., 655), provides that:

Hereafter all appointments of clerks of circuit courts of the United States shall be made by the circuit judges of the respective circuits in which such circuit courts are or may be established; and all provisions of law inconsistent herewith are hereby repealed.

1266. Section 2 of the act of March 3, 1891 (26 Stat. L., 826), establishing circuit courts of appeals, provides that:

The court shall also appoint a clerk, who shall perform and exercise the same duties and powers in regard to all matters within its jurisdiction as are now exercised and performed by the clerk of the Supreme Court of the United States, so far as the same may be applicable.

1267. Section 7 of the act of August 13, 1888 (25 Stat. L., 437), provides:

That no person related to any justice or judge of any court of the United States by affinity or consanguinity within the degree of first cousin shall hereafter be appointed by such court or judge to or employed by such court or judge in any office or duty in any court of which such justice or judge may be a member.

OATH.

1268. Before entering upon the duties of his office, each clerk of a United States court must take the oaths or affirmations of office prescribed by sections 794 and 1757; certified copies of which should be forwarded to the Department of Justice.

BOND.

1269. Sections 2 and 3 of the act of February 22, 1875 (18 Stat. L., 333), provide:

SEC. 2. That whenever the business of the courts in any judicial district shall make it necessary, in the opinion of the Attorney-General, for the clerk or marshal to furnish greater security than the official bond now required by law, a bond in a sum not to exceed forty thousand dollars shall be given when required by the Attorney-General, who shall fix the amount thereof.

1270. SEC. 3. That the clerks of the Supreme Court and the circuit and district courts, respectively, shall each, before he enters upon the execution of his office, give bond, with sufficient sureties, to be approved by the court for which he is appointed, to the United States, in the sum of not less than five and not more than twenty thousand dollars, to be determined and regulated by the Attorney-General of the United States, faithfully to discharge the duties of his office and seasonably to record the decrees, judgments, and determinations of the court of which he is clerk.

1271. And it shall be the duty of the district attorneys of the United States, upon requirement by the Attorney-General, to give thirty days' notice of motion in their several courts that new bonds, in accordance with the terms of this act, are required to be executed; and upon failure of any clerk to execute such new bonds, his office shall be deemed vacant.

1272. The Attorney-General may at any time, upon like notice through the district attorney, require a bond of increased amount, in his discretion, from any of said clerks within the limit of the amount above specified; and the failure of the clerk to execute the same shall in like manner vacate his office. * * *

1273. All bonds given by the clerks shall, after approval, be recorded in their respective offices, and copies thereof from the records, certified by the clerks, respectively, under seal of court, shall be competent evidence in any court. The original bonds shall be filed in the Department of Justice.

1274. The approval required by said section 3 is an approval in open court, and a certified copy of the order of approval should be annexed to the original bond forwarded to the Department of Justice. Clerks should not make copies of surplusage in connection with bonds, such as financial statements of bonding companies, etc.

1275. Sec. 5 of an act approved March 2, 1895 (28 Stat. L., 807), provides that:

Hereafter every officer required by law to take and approve official bonds shall cause the same to be examined at least once every two years for the purpose of ascertaining the sufficiency of the sureties thereon; and every officer having power to fix the amount of an official bond shall examine it to ascertain the sufficiency of the amount thereof and approve or fix said amount at least once in two years and as much oftener as he may deem it necessary.

1276. Hereafter every officer whose duty it is to take and approve official bonds shall cause all such bonds to be renewed every four years after their dates, but he may require such bonds to be renewed or strengthened oftener if he deem such action necessary.

1277. Blanks for bonds to be executed by clerks of United States courts will be furnished by the Department of Justice upon application therefor.

DEPUTY CLERKS AND OFFICE ASSISTANTS.

APPOINTMENT, ETC.

1278. Section 558, Revised Statutes:

One or more deputies of any clerk of a district court may be appointed by the court on the application of the clerk, and may be removed at the pleasure of judges authorized to make the appointment. In case of the death of the clerk, his deputy or deputies shall, unless removed, continue in office and perform the duties of the clerk, in his name, until a clerk is appointed and qualified; and for the default or misfeasance in office of any such deputy, whether in the lifetime of the clerk or after his death, the clerk and his estate, and the sureties in his official bond shall be liable.

1279. Section 624, Revised Statutes, has the same provisions regarding deputies of the clerks of the circuit courts.

1280. Attention is directed to paragraph 1267 as to the appointment of persons related to the judges.

1281. Authority for payment of salaries from official emoluments must be obtained from the Attorney-General before employing a deputy or other assistant. Such application should state the following:

1. Name of proposed employee.
2. Facts necessitating the employment.
3. Proposed rate of compensation.

QUALIFICATION.

1282. Before entering upon the duties of their offices deputy clerks must take the oaths or affirmations prescribed by sections 794 and 1757, Revised Statutes.

1283. Bonds and oaths of office of deputy clerks should not be entered of record at any other place in the district than that at which the clerk resides.

COURT RECORDS, OFFICIAL LETTERS, ETC.

1284. In making application for record books for official use in recording the proceedings of the courts, clerks will be guided by the directions in paragraphs 906 to 910.

1285. Attention is invited also to the instructions as to the printing of records, paragraphs 1125 to 1127.

1286. Application must be made to the Attorney-General for authority to print court calendars. Such application must be accompanied by competitive bids, stating the proposed rate per page, and indicating the number of copies needed, the term of court for which required, and the probable duration of the term. Clerks will not incur any expense for this purpose without *first* obtaining authority.

1287. The attention of clerks is invited to the following provision of law relating to final records in equity and admiralty cases:

SEC. 750, R. S. In equity and admiralty causes, only the process, pleadings, and decree, and such orders and memorandums as may be necessary to show the jurisdiction of the court and regularity of the proceedings, shall be entered upon the final record.

1288. Section 828, Revised Statutes, provides that:

All books in the offices of the clerks of the circuit and district courts containing the docket or minute of the judgments, or decrees thereof, shall, during office hours, be open to the inspection of any person desiring to examine the same, without any fees or charge therefor.

1289. All official letters relating to United States cases or business in which the United States is interested, received by clerks and not needed by them as vouchers for the payment of money, should be preserved as public property and delivered to their successors. Where the originals are essential as vouchers, copies thereof should be left in their places. Whenever such letters accumulate in number sufficient to make a volume, the clerk should cause the same to be bound in chronological order, and the expense thereof will be allowed in his emolument return.

MONEYS SUBJECT TO ORDER OF COURT.

REGISTRY FUNDS.

1290. Special attention is called to the following quoted sections of the Revised Statutes of the United States:

1291. SEC. 995. All moneys paid into any court of the United States, or received by the officers thereof, in any cause pending or adjudicated in such court, shall be forthwith deposited with the Treasurer, an assistant treasurer, or a designated depository of the United States, in the name and to the credit of such court: *Provided*, That nothing herein shall be construed to prevent the delivery of any such money upon security, according to agreement of parties, under the direction of the court.

1292. SEC. 996 (as amended by act of Feb. 19, 1897). No money deposited as aforesaid shall be withdrawn except by order of the judge or judges of said courts, respectively, in term or in vacation, to be signed by such judge or judges, and to be entered and certified of record by the clerk; and every such order shall state the cause in or on account of which it is drawn. And it shall be the duty of the judge or judges of said courts, respectively, to cause any moneys deposited as aforesaid, which have remained in the registry of the court unclaimed for ten years or longer, to be deposited in a designated depository of the United States, to the credit of the United States.

1293. SEC. 5504. Every clerk or other officer of a court of the United States who fails forthwith to deposit any money belonging in the registry of the court, or hereafter paid into court or received by the officers thereof, with the Treasurer, assistant treasurer, or a designated depository of the United States, in the name and to the credit of such court, or who retains or converts to his own use or to the use of another any such money, is guilty of embezzlement, and shall be punished by fine not less than five hundred dollars, and not more than the amount embezzled, or by imprisonment not less than one year nor more than ten years, or by both such fine and imprisonment; but nothing herein shall be held to prevent the delivery of any such money upon security, according to agreement of parties, under the direction of the court.

1294. Money deposited as required by section 995 is deposited to the credit of the court and not to the credit of the clerk thereof, and money so deposited can be lawfully drawn from the depository only as provided in section 996.

1295. Your attention is called to the fact that moneys deposited as required by section 995, which have remained in the registry of the court unclaimed for ten years or longer should, as soon as practicable, be deposited in a designated depository of the United States to the credit of the United States. Clerks will report to this Department, giving the cases and the amount so deposited in each case.

1296. SEC. 798, R. S. At each regular session of any court of the United States, the clerk shall present to the court an account of all moneys remaining therein, or subject to its order, stating in detail in what causes they are deposited, and in what causes payments have been made; and said account and the vouchers thereof shall be filed in the court.

WAGES, ETC., OF DECEASED SEAMEN.

1297. SEC. 4543, R. S. Every shipping commissioner in the United States shall, within one week from the date of receiving any such money, wages, or effects of any deceased seaman or apprentice, pay, remit, or deliver to the circuit court of the circuit in which he resides, the money, wages, or effects, subject to such deductions as may be allowed by the circuit court for expenses incurred in respect to such money and effects; and should any commissioner fail to pay, remit, and deliver the same to the circuit court within the time hereinbefore mentioned, he shall incur a penalty of not more than treble the value of such money and effects.

1298. SEC. 4545, R. S. When no claim to the wages or effects of a deceased seaman or apprentice, received by a circuit court, is substantiated within six years after the receipt thereof by the court, it shall be in the absolute discretion of the court, if any subsequent claim is made, either to allow or refuse the same. Such courts shall, from time to time, pay any moneys arising from the unclaimed wages and effects of deceased seamen, which, in their opinion, it is not necessary to retain for the purpose of satisfying claims, into the Treasury of the United States, and such moneys shall form a fund for, and be appropriated to, the relief of sick and disabled and destitute seamen belonging to the United States merchant marine service.

1299. Moneys paid into the circuit court, as provided by section 4543, should be deposited to the credit of the court in a United States depository, and be drawn therefrom only upon the order of court.

PUBLIC MONEYS.

1300. Clerks of United States courts who receive public moneys accruing to the United States will deposit the same in accordance with the directions on pages 28 to 34, inclusive, ante, under the heading "Judiciary funds," applicable to public moneys held by them.

1301. Clerks are instructed that, when, in cases arising under the internal-revenue laws, moneys are recovered and paid into court for the United States, they should pay such money to the collector of internal revenue, as provided by section 3216, Revised Statutes, and the costs collected on behalf of the United States should also be paid to the collector.

1302. All fines collected for violations of law affecting the Post-Office Department, for its revenue or property, are payable into the Treasury, for the use of the Post-Office Department. (See sec. 4059, R. S.)

1303. Moneys coming into the hands of clerks of the courts belonging to the United States, otherwise than in cases and proceedings under the internal-revenue laws, will be promptly covered into the Treasury, as required by law.

1304. Moneys derived from the sale of old material of any kind, such as stoves, furniture, etc., should be promptly covered into the Treasury, as provided by section 3618, Revised Statutes. (See paragraph 1456 of these instructions.)

FEES.

1305. The fees which a clerk may earn for official services are prescribed by section 828, Revised Statutes, which is as follows:

1306. For issuing and entering every process, commission, summons, capias, execution, warrant, attachment, or other writ, except a writ of venire or a summons or subpoena for a witness, one dollar.

1307. For issuing a writ of summons or subpoena, twenty-five cents.

1308. For filing and entering every declaration, plea, or other paper, ten cents.

1309. For administering an oath or affirmation, except to a juror, ten cents.

1310. For taking an acknowledgment, twenty-five cents.

1311. For taking and certifying depositions to file, twenty cents for each folio of one hundred words.

1312. For a copy of such deposition furnished to a party on request, ten cents a folio.

1313. For entering any return, rule, order, continuance, judgment, decree, or recognizance, or drawing any bond, or making any record, certificate, return, or report, for each folio, fifteen cents.

1314. For a copy of any entry or record, or of any paper on file, for each folio, ten cents.

1315. For making dockets and indexes, issuing venire, taxing costs, and all other services on the trial or argument of a cause where issue is joined and testimony given, three dollars.

1316. For making dockets and indexes, taxing costs, and all other services in a cause where issue is joined but no testimony is given, two dollars.

1317. For making dockets and indexes, taxing costs, and other services in a cause which is dismissed or discontinued, or where judgment or decree is made or rendered without issue, one dollar.

1318. For making dockets and taxing costs in cases removed by writ of error or appeal, one dollar.

1319. For affixing the seal of the court to any instrument, when required, twenty cents.

1320. For every search for any particular mortgage, judgment, or other lien, fifteen cents.

1321. For searching the records of the court for judgments, decrees, or other instruments constituting a general lien on real estate, and certifying the result of such search, fifteen cents for each person against whom such search is required to be made.

1322. For receiving, keeping, and paying out money in pursuance of any statute or order of court, one per centum on the amount so received, kept, and paid.

1323. For traveling from the office of the clerk, where he is required to reside, to the place of holding any court required by law to be held, five cents a mile for going and five cents for returning, and five dollars a day for his attendance on the court while actually in session.

1324. Section 52 of the act of July 1, 1898 (30 Stat. L., 559), provides:

Clerks shall respectively receive as full compensation for their service to each estate a filing fee of ten dollars, except when a fee is not required from a voluntary bankrupt.

1325. Attention also is invited to the act of March 3, 1887 (24 Stat. L., 541), which provides:

Hereafter no part of the appropriations made for the payment of fees for United States marshals or clerks shall be used to pay the fees of United States marshals or clerks upon any writ or bench warrant for the arrest of any person or persons who may be indicted by any United States grand jury, or against whom an information may be filed, where such person or persons is or are under a recognizance taken by or before any United States commissioner or other officer authorized by law to take such recognizance, requiring the appearance of such person or persons before the court in which such indictment is found or information is filed, and when such recognizance has not been forfeited or said defendant is not in default, *unless the court in which such indictment or information is pending orders a warrant to issue.*

1326. Section 7 of the act of March 2, 1895 (28 Stat. L., 956), provides:

And it shall be unlawful for any clerk of any court to include in his emolument, account or return any fee or fees not actually earned and due at the time such account or return is required by law to be made, and no fees not actually earned shall be allowed in any such account.

1327. No mileage is allowable for travel to and from the residence of a clerk when the court is adjourned from a Saturday to the next Monday, or over a legal holiday.

ACCOUNTS.

1328. Accounts of clerks of United States courts must be rendered quarterly, and be transmitted to the Department of Justice within twenty days after the close of the quarter, and each account must include all fees of every kind earned from the United States by the clerk during the quarter covered by it.

1329. When a person holds the offices of clerk of the district court and the circuit court he must render separate accounts for each court.

1330. The quarters of a fiscal year end, respectively, September 30, December 31, March 31, and June 30.

1331. Accounts should be made up on paper $8\frac{1}{2}$ inches wide and 14 inches long. Only one side of the paper must be used. Printed blanks must be used in all cases where practicable.

1332. Accounts of clerks of United States courts should be made out substantially as follows:

Account of ———, clerk of the United States ——— court for the ——— district of ——— for the quarter ending ———, 19—.

1. Travel to attend court (giving the places from which and to which travel was made).

2. Attendance on court (give each day for which a per diem is charged, and if a Sunday or holiday is charged for it must be shown that court was open and business transacted therein on each Sunday or holiday).

3. Return travel.

4. Miscellaneous services not rendered in a particular case.

5. Services in cases.

1333. The pages of an account must be numbered in the lower left-hand corner, the footing of the first page carried to the top of the next page, and so on to the last page of the account.

1334. The account must be itemized, giving date of each item of service, the character of each paper filed, the folios contained in each bond or other paper drawn and in each entry made on the minutes of the court. (See section 854, Revised Statutes, as to folios.)

1335. When services in cases are charged, the title and character of each case must be given.

1336. All charges for services relating to proceedings leading up to and subsequent to an indictment against any one or more persons, including charges for filing the commissioner's papers, should be made under a single case caption; and where it is not clear from the nature of the service itself that such service was on behalf of the United States, the account should show the facts which make it a service on that behalf.

1337. Where fees are claimed in two or more cases against the same defendant, they should, if possible, be charged on the same or consecutive pages of the account.

1338. Whenever folio fees are claimed for making entries, the account

should show whether the entries are separate and distinct, each under its own caption or title, or continuous and under one caption. If the latter, and more than one folio is charged in a case, the number of words must be given.

1339. A clerk of a court is not entitled to a per folio charge for making contemporaneous minutes and entries upon the term docket or calendar. Only where the entry is required to be made part of a permanent record is it a proper subject for such charge.

1340. Where charge is made for issuing a *capias* or bench warrant, it must be shown whether the defendant was already in custody or on bail; and if on bail, whether the writ was issued in accordance with the act of March 3, 1887. (See paragraph 1325.)

1341. When charge is made for issuing an alias or pluries writ of *capias*, the account must show that the same was issued upon the order of the court.

1342. When charges are made for entering return and filing an execution, state whether collection was made, and if made, the amount collected.

1343. When charges are made for taking separate bonds or recognizances of witnesses in a case, the account must show that the witnesses could not conveniently be recognized together.

1344. When fees are claimed for administering oaths to witnesses to testify, it should be affirmatively shown that such witnesses were sworn on behalf of the United States, or after having been subpoenaed under the provisions of section 878, Revised Statutes.

1345. When final record is charged, the account must specify each paper and journal entry copied into such record and the number of words in each. (This is necessary to enable the accounting officers to deduct charges for unnecessary entries not required by the court.) The final record in each case is considered as one continuous entry. (See paragraphs 1486 to 1489.)

1346. Where fees are claimed for services rendered on appeal, the account should clearly show by whom the appeal was taken; and in all other cases the account should clearly indicate the nature of the service and on whose behalf it was rendered.

1347. When a docket fee is charged, it must be shown that the case is finally disposed of so far as the court for which the account is rendered is concerned. Where more than one dollar docket fee is charged, the account must show that issue was joined; and where three dollars is charged as a docket fee, the account must show that issue was joined and that testimony was taken.

1348. The docket fee is not chargeable until all the services in a case, including the making and indexing of the final records, have been performed.

1349. Charges for affixing the seals of the courts to the pay rolls of

and necessary clerk hire, to be audited by the proper accounting officers of the Treasury Department, any sum not exceeding seven thousand dollars a year, nor exceeding that rate for any time less than a year: *Provided*, That whenever, in either of the said districts, the same person holds the office of clerk of both the circuit and district courts, he shall be allowed by the Attorney-General to retain for his personal compensation, as aforesaid, only such sum as is herein allowed to be retained by a person holding the office of clerk of only one of the said courts.

1361. SEC. 842. Clerks and marshals may be allowed to retain, for all official services in prize causes, an additional compensation not exceeding in amount one-half of the maximum compensation allowed to them, respectively, by the three preceding sections.

1362. SEC. 843. The allowances for personal compensation of * * * clerks, * * * for each calendar year, shall be made from the fees and emoluments of that year, and not otherwise.

1363. The *year* referred to in this section is the calendar year.

1364. A clerk is entitled to retain out of his earnings \$3,500 per calendar year, or at that rate for a less period, for his own compensation, over and above allowances for his office expenses. Should his earnings, after the deduction of necessary office expenses, exceed said sum, the surplus, if not withheld by the Treasury Department, must be paid into the Treasury of the United States. In a few States a clerk may lawfully retain more than \$3,500 per annum for his personal compensation. (See section 842, Revised Statutes, as to additional compensation in prize causes.)

1365. Before any amount is retained by a clerk for his personal compensation his necessary office expenses must be paid from the fees and emoluments of the office.

EMOLUMENT RETURNS.

The sections of the Revised Statutes relative to such returns are as follows:

1366. SEC. 833. Every district attorney, clerk of a district court, clerk of a circuit court, and marshal, shall, on the first days of January and July, in each year, or within thirty days thereafter, make to the Attorney-General, in such form as he may prescribe, a written return for the half year ending on said days, respectively, of all the fees and emoluments of his office, of every name and character, and of all the necessary expenses of his office, including necessary clerk hire, together with the vouchers for the payment of the same for such last half year. He shall state separately in such returns the fees and emoluments received or payable under the bankrupt act; and every marshal shall state separately therein the fees and emoluments received or payable for services rendered by himself personally, those received or payable for services rendered by each of his deputies, naming him, and the proportion of such fees and emoluments which, by the terms of his service, each deputy is to receive. Said returns shall be verified by the oath of the officer making them.

1367. SEC. 844. Every district attorney, clerk, and marshal shall, at the time of making his half-yearly return to the Attorney-General, pay into the Treasury, or deposit to the credit of the Treasurer, as he may be directed by the Attorney-General, any surplus of the fees and emoluments of his office which said return shows to exist over and above the compensation and allowances authorized by law to be retained by him.

1368. An act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898 (30 Stat. L., 544), provides:

1369. SEC. 51. *Duties of clerks.*—a Clerks shall respectively (1) account for, as for other fees received by them, the clerk's fee paid in each case and such other fees as may be received for certified copies of records which may be prepared for persons other than officers; (2) collect the fees of the clerk, referee, and trustee in each case instituted before filing the petition, except the petition of a proposed voluntary bankrupt which is accompanied by an affidavit stating that the petitioner is without, and can not obtain, the money with which to pay such fees; (3) deliver to the referees upon application all papers which may be referred to them, or, if the offices of such referees are not in the same cities or towns as the offices of such clerks, transmit such papers by mail, and in like manner return papers which were received from such referees after they have been used; (4) and within ten days after each case has been closed pay to the referee, if the case was referred, the fee collected for him, and to the trustee the fee collected for him at the time of filing the petition.

1370. An act of Congress approved July 1, 1898, provides—

That hereafter the clerks of the district courts in the Territories of Arizona, New Mexico, and Oklahoma shall be required to report in their semiannual emolument reports all fees earned in United States cases only. * * *

1371. The semiannual return of official emoluments must be rendered within thirty days after the close of the half year, and the return including the end of the clerk's term of office should be rendered as soon as possible, in order that his accounts may be settled and any balance due him may be paid.

1372. The first return will include the day upon which the clerk entered upon the duties of his office, and end with the half year; and his last return will end on the day previous to the day upon which his term of office expired.

1373. An act of Congress approved June 28, 1902 (32 Stat. L, 475), provides—

That each clerk of the district and circuit courts shall, on the first days of January and July of each year, or within thirty days thereafter, make to the Attorney-General, in such form as he may prescribe, written returns for the half year ending on said days, respectively, of all fees and emoluments of his office of every name and character, and of all necessary expenses of his office, including necessary clerk hire, together with the vouchers for the payment of the same for such last half year; and the word "emoluments" shall be understood as including all amounts received in connection with the admission of attorneys to practice in the court, all amounts received for services in naturalization proceedings, whether rendered as clerk, as commissioner, or in any other capacity, and all other amounts received for services in any way connected with the clerk's office: *Provided further*, That no amount in excess of one dollar shall be received from any attorney in connection with his admission to practice in a circuit or district court.

1374. In accordance with this provision of law clerks must include in their returns of official emoluments all of the fees and emoluments mentioned in said proviso. Mileage is not a fee and the clerk should

not charge himself therewith, but should report it as indicated on the forms furnished by the Department.

1375. In rendering emolument returns clerks will use Department Forms 38-A circuit court, 38-A district court, 119-A, 120-A, 130-A, 131-A, 153-A, and 168-A. 120-A is to be used only by clerks of district courts.

1376. The schedules of earnings from individuals and corporations required on Department Forms 119-A, 120-A, 130-A, 131-A, and 153-A, and the recapitulation on Form 168-A, are essential parts of the emolument returns, and the complete set for the court to which the return relates should be included in each return rendered. In case there are no earnings to be reported on a particular form, the form, nevertheless, should be forwarded with the return, with a statement thereon that there are no earnings to be reported on said form. In each schedule the footing of the first column should be carried to the top of the next, and so on through all the columns of the schedule.

1377. Clerks must retain in their offices exact duplicates of all emolument returns rendered by them, including the schedules of earnings.

1378. Whenever practicable authority must be obtained from the Attorney-General before any expense is incurred which is payable from the emoluments of the clerk's office. If the total proposed expenditure exceeds \$10, competitive bids must be forwarded with the application for authority, except where the object of the proposed expenditure is in itself of such character as to make such bids impracticable, as clerk hire, telephone service, etc. Such application must state in detail the character of the proposed expense and the necessity therefor.

1379. Reasonable expenditures necessary for the transaction of the business of the clerk's office will be allowed, if authorized, for rent of an office, furniture for same, clerk hire, fuel, light, and stationery; but these expenditures can only be made out of his official emoluments, and in order that the same may be allowed, the clerk must forward with each return, properly itemized and receipted original vouchers for such expenditures, and reference should be made to the date of the letter authorizing the expense.

1380. Charges in emolument returns for clerk hire, etc., not previously authorized are subject to disallowance.

1381. Clerks must forward with their returns proper vouchers for expenditures for the purposes above named, whether the earnings exceed the maximum or not.

1382. If the same person be clerk of both the circuit and district court, the office expenses, vouchers for which must accompany his emolument returns, must be apportioned in accordance with the earnings in the two courts. A schedule of all expenditures should accompany the vouchers for the same.

REGULATIONS OF THE SOLICITOR OF THE TREASURY.

1383. The following are regulations prescribed by the Solicitor of the Treasury, under authority of sections 377 and 379, Revised Statutes, which should be fully and carefully complied with:

1384. Upon taking the oath of office and filing their official bonds clerks of the different courts of the United States are requested immediately to advise the Solicitor of the Treasury by letter to that effect.

1385. When a suit is commenced in behalf of the United States in any district or circuit court, the clerk of such court will promptly report the fact to this office, the time of commencement, the character of the action, and the parties thereto, according to the form prescribed for that purpose.

1386. Within thirty days after the adjournment of each term of the district and circuit courts the respective clerks will forward to the Solicitor a list of all judgments and decrees entered in said courts, respectively, since the close of the term next preceding the one so adjourned, showing the amount adjudged or decreed for or against the United States, specifying separately the amount of debt or damages and costs; showing also, in each case, whether execution has been issued, the time when issued, and whether it has been returned; and, if returned, setting forth the time when the return was made and the substance thereof. Blank forms for returns under this and the preceding regulations will be furnished from this office.

1387. Clerks of courts who receive public moneys accruing to the United States from fines (except fines in post-office, internal-revenue, and customs cases), forfeitures, fees, forfeiture of recognizances or bail bonds given in criminal cases, debts due the United States, including interest on such debts, and costs in all cases (civil and criminal), except in cases for violation of internal-revenue or customs laws, should deposit the same to the credit of the Treasurer of the United States, giving to the depository full information as to the source of receipt in each case, in order that it may appear in the certificate of deposit issued therefor.

1388. Moneys collected in cases for violation of internal-revenue laws, including costs, should be paid to the collector of internal revenue for the district in which the case arose.

1389. Moneys collected in cases for violation of customs and navigation laws, including costs, should be paid to the collector of customs for the district in which the case arose, and his receipt therefor should be transmitted to the Solicitor of the Treasury.

1390. Moneys collected in civil post-office suits and claims and all fines in criminal cases for violation of the postal laws should be deposited to the credit of the Treasurer of the United States for the use of the Post-Office Department.

1391. Clerks of courts should strictly follow these instructions, for a departure therefrom will give much trouble in making necessary corrections.

1392. Upon paying over to a depository, Treasurer or Assistant Treasurer of the United States, any moneys which have been received for the use of the United States, the clerk will notify the Solicitor of the Treasury by letter, stating the number, title, nature, and date of commencement of the cases in which the collections were made, and the nature of the collections.

1393. Clerks will report respecting all post-office cases, as required of United States attorneys by paragraph [1257 of these instructions].

1394. Internal-revenue cases are not to be reported to the Solicitor of the Treasury.

MISCELLANEOUS.

1395. United States attorneys, marshals, and clerks will report to the Solicitor the existence and situation of any property belonging to the United States which is not in the care of any officer or agent of the Government, to the end that it may be protected and preserved. If either of them shall discover that any claim in favor of the Government, not in his hands, can be collected, he will report to the Solicitor, and recommend the best mode of proceeding. They will also report immediately to the Solicitor any default of a United States attorney, marshal, clerk, collector, or other person engaged in the collection of any debt due to the United States, or of the revenue, or in the disbursement of any money belonging to the Government.

1396. *Letters to this office will be on ordinary sized letter paper, with a margin on all sides of an inch in width, so as to admit of binding.*

1397. All letters will be inclosed in envelopes. Each distinct subject will be communicated in a separate letter, under a separate envelope. Such letters should be indorsed on the back thus:

(Name of party writing.)

(Official designation of writer.)

(Date of letter.)

(Brief of contents.)

1398. In all cases, when desired, triplicate receipts for moneys or papers received will be executed by the party receiving them.

1399. In all cases where receipts, notices, returns, or other papers are required to be sent to the Solicitor's office, they must be forwarded by the first mail.

MISCELLANEOUS MATTERS.

1400. Usually clerks should not deliver process issued by them to deputy marshals but should forward the same direct to the United States marshal, who is required to docket the same. If, however, immediate service is necessary, process may be delivered to a deputy.

1401. Clerks of courts should furnish this Department, as well as the Auditor for the State and other Departments, with copies of rules of court for their districts, when printed, and copies, without seals, of new rules or orders amending the same and affecting charges in their accounts.

1402. Executions in favor of the United States and subpoenas for witnesses on behalf of the United States should be issued only upon the written request or precept of the United States attorney, and fees charged for issuing them without such precept will be allowed only when it is shown that they were issued in obedience to an order of

court, or the subpoenas were issued upon request made by a grand jury. Accounts must show in each case upon what authority the above specified writs were issued.

1403. Attention is called to the following sections of the Revised Statutes of the United States:

SEC. 877. Witnesses who are required to attend any term of a circuit or district court on the part of the United States shall be subpoenaed to attend to testify generally on their behalf, and not to depart the court without leave thereof or of the district attorney; and under such process they shall appear before the grand or petit jury, or both, as they may be required by the court or district attorney.

1404. SEC. 829 (paragraph 25). * * * To save unnecessary expense it shall be the duty of the clerk to insert the names of as many witnesses in a cause in such subpoena as convenience in serving the same will permit.

1405. Clerks are informed that, when issuing subpoenas for witnesses, this provision of law must be complied with.

1406. Section 1 of the act of February 22, 1875 (18 Stat. L., 333), provides that—

Accounts and vouchers of clerks, marshals, and district attorneys shall be made in duplicate, to be marked, respectively, "original" and "duplicate." And it shall be the duty of the clerk to forward the original accounts and vouchers of the officers above specified, when approved, to the proper accounting officers of the Treasury, and to retain in his office the duplicates, where they shall be open to public inspection at all times.

1407. Under the act of July 31, 1894, the said accounts are required to be forwarded to the Attorney-General for examination. Clerks are instructed to forward them, *especially the accounts of marshals, immediately after approval.*

1408. Clerks are directed to certify to marshals' pay rolls of witnesses and jurors as required by paragraphs 759 and 802 of these instructions. But one certificate is required to each complete roll, i. e., to the complete list or roll of all the witnesses, grand jurors, or petit jurors at any term of court included in one account. The seal of the court is unnecessary to such certification, and charges for affixing same will not be allowed in the accounts of clerks.

1409. United States attorneys have been instructed that copies of certain papers and for certain purposes should be made in their offices and not requested from the clerks. Copies or transcripts of docket entries showing the condition of certain cases are required of the United States attorneys by the Attorney-General, but these copies should be taken from the dockets which those officers are required to keep. If a United States attorney has failed to keep proper dockets, and finds it necessary to secure such data from the records in the clerk's office, he should, nevertheless, make the copies himself or have them made by some one in his office. It is the duty of the clerk to distinguish between requests for such data, which require no certification from the clerk as to their authenticity, and transcripts of records,

judgments, etc., which require such authentication, and to suggest to the United States attorney that it is not the duty of the clerk to make the former.

1410. In accordance with the provisions of section 19 of an act approved May 28, 1896, it is the duty of the clerks of United States district courts to notify the Attorney-General forthwith of the appointment of United States commissioners by the district court. Such notice should give the name of the commissioner, place of his official residence, date of appointment, and date of taking the oath. No certificates or seals to such notices are required, neither are copies of orders appointing commissioners, nor copies of oaths taken by them required, and no fees will be allowed for such certificates, seals, or copies.

1411. Articles purchased by clerks of United States courts from their official emoluments are the property of the Government, and such as are not consumed in the work of the office must be turned over to their respective successors in office.

DECISIONS OF THE SUPREME COURT AND THE COMPTROLLERS OF THE TREASURY.

1412. The following is a digest of the principal decisions of the Supreme Court and the Comptrollers of the Treasury by which this Department and the Auditor are guided in the examination and settlement of clerks' accounts.

IN GENERAL.

1413. Fees matters of strict law.—Fees allowed to public officers are matters of strict law, depending upon the very provisions of the statute. They are not open to equitable construction by the courts, nor to any discretionary action on the part of officials. (U. S. v. Shields, 153 U. S., 88. Page 91.)

1414. Increase of duties by statute; independent employment.—When a statute increases the duties of an officer by the addition of duties germane to the office, he must perform them without extra compensation; but if he is employed to render services in an independent employment not incidental to his official duties he may recover for such services. (U. S. v. King, 147 U. S., 676.)

1415. Services performed in obedience to an order of court.—When the clerk performs a service in obedience to an order of the court, he is as much entitled to compensation as if he were able to put his finger upon a particular clause of a statute authorizing compensation for such service. (U. S. v. Van Duzee, 140 U. S., 169.)

(The Supreme Court in the Taylor case disallowed fees claimed for affidavits required by order of court, and the Comptroller in re Pendar held that the above relates to the practice of the court *per se* and not to matters at most remotely connected with a court's own proceedings. See 45 Fed. Rep., 531, 147 U. S., 695, and 9 Comp. Dec., 405.)

1416. Services performed under established practice.—A practice of the court established or directly sanctioned by the judge has the same force and effect as a rule of court, and the clerk of a court acting thereunder is entitled to fees for the services rendered necessary by such practice. (2 Comp. Dec., 217.)

1417. "Practice" not "recognized."—A practice of a court under which the clerk

performs services which are neither necessary nor required by law is not such "recognized practice" as requires the allowance of fees for such services. (9 Comp. Dec., 113.)

1418. Items claimed must be specified in account and approved.—The accounting officers are not authorized to allow to clerks of courts fees for any service unless the items thereof have been specified in an account approved by the court, as provided by the act of February 22, 1875; nor are they authorized to substitute for fees for services not performed fees for other services which have been performed. (9 Comp. Dec., 219.)

1419. Set-offs in accounts.—A clerk of court is not entitled to credit in the settlement of his accounts for amounts short charged by him as a set-off, either against overcharges for services of the same class or against amounts disallowed, the items short charged never having been presented to and approved by the court, as required by law. (6 Comp. Dec., 382.)

1420. Where compensation not provided by law.—A clerk of court is not entitled to compensation for services performed under an order or rule of court unless compensation for such services is provided for by law. (7 Comp. Dec., 272.)

1421. Services on behalf of defendant in criminal case.—For services rendered on behalf of the defendant in a criminal case other than those performed under section 878, Revised Statutes, the clerk of the United States court is not entitled to fees from the Government. (2 Comp. Dec., 221.)

1422. Making duplicate accounts.—Clerks of courts are not entitled to folio fees for making duplicate accounts, such accounts not being records within the meaning of section 828, Revised Statutes. (7 Comp. Dec., 726.)

ACKNOWLEDGMENTS.

1423. Only one fee should be allowed for taking the acknowledgment of defendant and sureties, unless it is made to appear that it was necessary to take them separately. (U. S. v. Taylor, 147 U. S., 695.)

ATTENDANCE.

(See *Per Diems*, paragraphs 1505 to 1519.)

BILLS OF COSTS.

(See *Filing*, paragraph 1482.)

BLANKS.

(See *Emoluments*, paragraph 1455.)

BONDS.

(See also *Filing*, paragraph 1476.)

1424. A clerk of a United States court is not entitled to fees from the United States for preparing the official bonds of the various officers of the court. (U. S. v. Van Duzee, 140 U. S., 169.)

CALENDARS.

1425. Under an established practice requiring the clerk of a court to make separate calendars of each term of the court for the use of the judge, the district attorney, and the clerk, a clerk who performs that service is entitled to folio fees provided by clause

8 of section 828, Revised Statutes, such services not being covered by the docket fees provided for by other clauses of said section. (7 Comp. Dec., 671.)

1426. For making court calendars in sets of three for the use of the judge, the district attorney, and the clerk of the court, the clerk is entitled to folio fees for making a record, for the calendar first made of each set, and folio fees for making a copy for each of the other two; and in ascertaining the number of folios in each calendar it must be regarded as a continuous record. (8 Comp. Dec., 395.)

CERTIFICATES.

1427. Under a statute of the Territory of Arizona, which provides that service on defendants in civil cases at law shall be made by delivering to each defendant a true copy of the summons attached to a true copy of the complaint, a clerk of the United States court in that Territory is entitled to fees for certificates and seals attached to copies of complaints made by him for service. (7 Comp. Dec., 184.)

1428. It is not required that the copy of a subpoena in chancery served on a defendant under rule 13 of the general equity rules shall be certified, and the clerk is not entitled to fees for certificates and seals to such copies, unless required by rule of court or a practice directly sanctioned by the court. (2 Comp. Dec., 342.)

1429. Where a restraining order directs that the marshal serve the defendants with a certified copy thereof, the clerk is entitled to fees for certificates to the copies, but not for seals to such certificates. (2 Comp. Dec., 342.)

1430. When an established practice of the court, with the approval of the judge thereof, requires separate orders to pay witnesses and certified copies of such separate orders to be given to the marshal, charges for copies of such orders and certificates thereto will be allowed to the clerk of the court, notwithstanding that in lieu of actually entering each separate order he incorporates the names of all witnesses in each case in a single order. (1 Comp. Dec., 230.)

1431. The receipt given by the clerk of the court to a marshal for moneys which the marshal has paid to him in pursuance of the act of May 28, 1896, is not a certificate or report within the meaning of clause 8, section 828, Revised Statutes, and the clerk is not entitled to any fee therefor. (6 Comp. Dec., 540.)

1432. A clerk of a court is not entitled to folio fees as part of the certificate for the words and figures contained in the roll of jurors and witnesses made by the marshal, upon which payment is made and upon which he indorses his certificate to the effect that the court ordered payment thereof. (6 Comp. Dec., 382.)

CHINESE CASES.

1433. Under section 13 of the act of September 13, 1888, United States commissioners have final jurisdiction in cases for the deportation of Chinese persons found unlawfully in the United States, subject only to the right of appeal to the district court by the defendant; and the clerk of a district court is not entitled to fees in such cases where the commissioner has taken final action and issued an order for deportation and the defendant has not taken an appeal, but where the district court has wrongfully assumed jurisdiction. (6 Comp. Dec., 404; 11 Comp. MS. Dec., 315.)

CITATIONS.

1434. As a United States marshal can serve process in any county in his district, but one original citation in scire facias cases is necessary, and a clerk of a United States court is not entitled to fee for issuing several original citations under the State practice requiring separate citations to be issued for service by the proper officers in each county. (3 Comp. Dec., 419.)

COPIES.

1435. Of orders approving accounts.—Clerks are entitled to fees for copies of orders approving accounts to be forwarded to the Treasury Department. (*U. S. v. Jones*, 147 U. S., 672.)

1436. Of orders to pay witnesses.—A clerk may charge for copies of the orders of the court directing the marshal to pay witnesses and jurors, but not for affixing seals to such copies. (*U. S. v. Taylor*, 147 U. S., 695.)

1437. Of orders not to appear.—A clerk of a district court who, by an order of court, made and sent to parties in bankruptcy cases certified copies of an order notifying them not to appear at the regular term of the court to which they had been notified to appear, but at a special term to which the court had been adjourned, is not entitled to separate fees for this service, compensation therefor being included in the fee of \$10 provided by section 52 of the act of July 1, 1898, "as full compensation for their services to each estate." (6 Comp. Dec., 900.)

1438. Of indictments.—Clerks are entitled to charge for copies of indictments furnished defendants, when ordered by the court to be made at the expense of the United States, but not otherwise. (*U. S. v. Van Duzee*, 140 U. S., 169.)

Under a rule of court requiring that copies of indictments shall be furnished defendants on arraignment, the clerk of court is entitled to the fee for copy of the indictment for each of two or more joint defendants. (7 Comp. Dec., 219.)

1439. Of subpoenas.—Clerks are entitled to fees for copies of subpoenas, when ordered by the court to be made. (*U. S. v. Van Duzee*, 140 U. S., 169.)

1440. Of papers remitted under section 1037, Revised Statutes.—H., a clerk of a circuit court, under an order of court remitting to the district court under section 1037, Revised Statutes, 236 indictments, instead of transmitting the original indictments and other original papers, made a transcript in each case, in which he included the organization of the court and the grand jury, the return of the indictment by the grand jury, copy of the indictment, and all other processes, recognizances, and other papers, the motion of the district attorney to remit, and the order of the court remitting the cases. The motion of the district attorney and the order of the court were in general terms for the remission of "all indictments then pending in the circuit court." The order was in the language of section 1037, Revised Statutes, and did not prescribe a transcript instead of the original papers. It does not appear that there is a rule of court or established practice upon the manner of remitting criminal cases. H. claims fees for his services amounting to \$708.90. Held: That he can only be allowed the fees that he would have received had he made one copy of the order of court and other records necessary to confer jurisdiction upon the district court. (1 Comp. Dec., 51.)

1441. Of judgments.—Under a statute of the Territory of Arizona, which provides that when a judgment, other than death, has been pronounced, a certified copy of the entry of the judgment must be forthwith delivered to the officer whose duty it is to execute the sentence, and that no other warrant or authority is necessary to justify or require its execution, a clerk of the United States court in that Territory is entitled to the fees provided for the certified copy required by said statutes, but not to fees for issuing a mittimus, nor to fees for certified copy of the mittimus. (7 Comp. Dec., 184.)

1442. A certified copy of the judgment and sentence of an offender to imprisonment is sufficient warrant for transporting and committing him to the place of confinement, and a clerk of court is not entitled to a fee for issuing a writ of commitment in addition thereto. (9 Comp. Dec., 113.)

COST BILLS.(See *Filing*, paragraph 1482.)**COSTS.**

1443. A clerk who has paid into the Treasury the costs taxed against the defendant in a case where the Government is the plaintiff can not demand repayment from the United States of the sum taxed as his fees. The amount which he is entitled to receive for services rendered by him to the United States is payable only upon his presenting an itemized account under section 856, Revised Statutes. (2 Comp. Dec., 418.)

DOCKET FEES.

1444. A clerk is entitled to fees for making dockets, etc., in suits upon manufacturers' bonds under the internal-revenue laws where issue is joined and testimony given; also for making docket entries and indexes in cases of sci. fa. and other proceedings where issue was joined but no testimony given. (U. S. v. Payne, 147 U. S., 687.)

1445. "We think the docket fee of \$3.00 was intended to cover the entry of the case upon the docket, indexing the same, making contemporaneous minutes and entries upon the docket or calendar, and such other incidental services as are not covered by other clauses of the statute. Where, however, the entry is not a mere memorandum, but required to be made part of a permanent record, it is a proper subject for charge per folio." (U. S. v. Van Duzee, 140 U. S., 199.)

1446. A clerk's right to a docket fee as upon issue joined attaches at the time such issue is in fact joined, and is not lost by the subsequent withdrawal of the plea which constituted the issue, and this rule applies to cases in which after issue joined the case is discontinued on nolle pros entered. (U. S. v. Kurtz, 164 U. S., 49.)

1447. A clerk is not entitled to a docket fee until the case is finally disposed of. (U. S. v. McCandless, 147 U. S., 692.)

1448. A clerk is not entitled to a docket fee when no indictment has been found. (U. S. v. Payne, 147 U. S., 687; U. S. v. Van Duzee, 140 U. S., 169.)

1449. Cases sent up to a district court by a United States commissioner in which no indictments have been found by the grand jury are not "causes" within the meaning of section 828, Revised Statutes, and there being no docket fee provided by the statute except in "causes" pending in the courts, a clerk of court is not entitled to a docket fee in such cases. (7 Comp. Dec., 272.)

1450. A clerk is not entitled to a docket fee in proceedings to remove a prisoner to another district for trial. (U. S. v. King, 147 U. S., 676.)

1451. Where a district court referred to a United States commissioner, to hear and dispose of, a proceeding for the deportation of a Chinese person who had been arrested upon a bench warrant issued by order of the court, and the commissioner heard and disposed of the case, the proceeding before the district court was not a "cause" in that court, jurisdiction of the case not having been assumed thereby, and the clerk of the court is not entitled to a docket fee therein. (7 Comp. Dec., 219.)

1452. In scire facias cases in which the defendants do not answer or show cause, and judgment is rendered without issue, the clerk of the court is entitled to a docket fee of one dollar only. (5 Comp. Dec., 737.)

1453. The fees of clerks of the supreme courts in the Territories for making dockets are governed by paragraph 13 of section 828, Revised Statutes, and not by paragraph 10 or 11 of that section. (6 Comp. Dec., 580.)

EMOLUMENTS.

1454. The fees and emoluments of the office of clerk of the United States circuit court belong to the Government. The provision in section 839, Revised Statutes, for the payment therefrom of the personal compensation and office expenses of the clerk is equivalent to an appropriation of so much thereof as is necessary for those objects. (7 Comp. Dec., 585.)

1455. Blanks or other supplies purchased by a clerk from the earnings of his office included in his return of official emoluments as a credit against his gross earnings, and are the property of the Government, regardless of the amount of the earnings of the office, and a clerk who purchases such property from his predecessor can not receive credit therefor in the statement of his emolument account unless he first accounts to the Government for the value thereof. (7 Comp. Dec., 171.)

1456. A typewriter purchased by a clerk of a court from the emoluments of his office is the property of the United States, and when sold the proceeds must be covered into the Treasury under section 3618, Revised Statutes. (2 Comp. Dec., 434.)

1457. The maximum compensation of a clerk of a United States court is computed by the calendar year, and where he serves less than a year his compensation is limited to a pro rata for his period of service. (7 Comp. Dec., 171.)

EMOLUMENT RETURNS.

1458. In the collection of official fees the clerk of a court is the agent of the Government, and fees collected by him are paid to the Government through him and he must account for them. (7 Comp. Dec., 585.)

1459. Under long-continued practice a clerk of a court is not entitled to credit in his emolument account for office expenses, unless they are approved by the Attorney-General. (5 Comp. Dec., 886.)

1460. A clerk of a court is not entitled to compensation for making the semi-annual return of his official emoluments required by section 833, Revised Statutes. (8 Comp. Dec., 402; 19 Comp. MS. Dec., 951.)

ENTRIES.

1461. A clerk is entitled to charge for entering orders for alias scire facias, and for venditioni exponas; also for making record entries of recognizances of defendants or for entering and filing such recognizances, but not for both; also for entering orders approving accounts of officers of court; also for entering separate orders of court excusing jurors, entering orders of court to issue subpoenas and alias capiases. (U. S. v. Payne, 147 U. S., 687.)

1462. A clerk is entitled to fees for entering orders for trial and recording verdicts; also for entering bonds, oaths, and appointments of jury commissioners, deputy marshals, bailiffs, United States Attorneys and Assistant United States Attorneys if required by order of court or by custom to do so; also for entering orders approving accounts. (U. S. v. Van Duzee, 140 U. S., 169; U. S. v. Jones, 147 U. S., 672.)

1463. A clerk is entitled to fees for entering orders of court directing the clerk as to the disposition of money received for fines. (U. S. v. Kurtz, 164 U. S., 49.)

1464. Under section 828, Revised Statutes, a clerk of a court is entitled to a fee of 15 cents for each separate entry of one folio or less, where made under a separate caption; but where several entries are made under the same caption they can not be considered as separate entries but must be treated as one continuous entry. (5 Comp. Dec., 120.)

1465. A clerk of a court is not entitled to the fee fixed by law for entering the marshal's return on a mittimus, where the only entry made by him is the notation of the fact that the writ was executed. (6 Comp. Dec., 382.)

1466. Where it is the practice of the court to make a separate order to the marshal to pay each juror and witness, the clerk is entitled to fees for entering such orders and for copies thereof for the marshal. (7 Comp. Dec., 283.)

1467. When an indigent defendant has made the proof required by section 878, Revised Statutes, the clerk is entitled to a folio fee of 15 cents from the United States for entering the order of court to summon defendant's witnesses. (2 Comp. Dec., 578.)

1468. A clerk of a court is entitled to a fee of 15 cents per folio for making entries in a separate cashbook which he keeps by direction of the Attorney-General as a record of moneys received from the marshal and deposited in the Treasury, as required by section 6 of the act of May 28, 1896. (3 Comp. Dec., 616.)

1469. A clerk of a court is not entitled to fees for entries on the journal of the court, as for general entries showing that business was transacted; but he is entitled to such fees in the specific cases or for the miscellaneous business to which the entries relate. (6 Comp. Dec., 382.)

1470. A clerk of court is not entitled to folio fees for docket entries, that service being covered by docket fees. (6 Comp. Dec., 382.)

1471. A clerk of court is not entitled to folio fees for entering an order or making a record where the only service performed is the filing of the paper in his office. (6 Comp. Dec., 382.)

1472. The fee provided by law for a clerk of court for issuing a subpoena includes all services in connection with the issue and return thereof, except the special fee provided for entering the return itself, and the clerk is not entitled to fees for entries of the facts of its issue, return, etc., made on the subpoena docket. (9 Comp. Dec., 219.)

EXPENSES.

1473. The payment by a clerk of court of the expense of cleaning his office rooms, which were in a public building under the control of the Treasury Department, and which was provided for by the appropriation for pay of assistant custodians and janitors, was not authorized as an expense of his office. (13 Comp. MS. Dec., 914.)

FILING.

1474. A clerk of a circuit or district court of the United States receiving papers sent up in criminal cases by the commissioners before whom the examinations were had may file them in the order as they come from the commissioners and is entitled to his fees for filing each such paper. (U. S. v. Van Duzee, 140 U. S., 169.)

1475. Section 19 of the act of May 28, 1896, c. 252, providing that the "terms of office of all commissioners of the circuit courts heretofore appointed shall expire on the 30th day of June, 1897, * * * and said commissioners shall then deposit all the records and other official papers appertaining to their offices in the office of the clerk of the circuit court by which they were appointed," not having authorized the filing of the writings in question, and no provision having been made for compensating the clerk for the service of receiving them and retaining them in his custody, the Court of Claims erred in awarding judgment in favor of the defendant. (U. S. v. Van Duzee, 185 U. S., 278.)

1476. A clerk is entitled to charge for filing oaths, bonds, and appointments of

deputy marshals, jury commissioners, bailiffs, district attorneys and their assistants. (*U. S. v. Van Duzee*, 140 U. S., 169.)

1477. A clerk is entitled to fees for filing marshal's duplicate accounts with the vouchers attached, but not for filing each voucher. (147 U. S., 672.)

1478. A clerk is entitled to fees for filing bank certificates of deposit, for fines paid, to the credit of the Treasurer of the United States. (*U. S. v. Kurtz*, 164 U. S., 49.)

1479. Charges for filing precipes for bench warrants are proper; but no such precipe is required after sentence, the sentence being in itself an order for a mittimus. (*U. S. v. Van Duzee*, 140 U. S., 169.)

1480. A clerk is not entitled to fees for filing orders of United States attorneys to discharge witnesses. (147 U. S., 695.)

1481. A clerk is not entitled to fees for filing separate orders for the payment of jurors and witnesses. (*U. S. v. King*, 147 U. S., 676.)

1482. A clerk of a court is not entitled to fees for filing cost bills in a case prior to the final disposition of the case and the entry of judgment therein. (8 Comp. Dec., 395.)

1483. Under section 878, Revised Statutes, the clerk's fee for the filing of an indigent defendant's affidavit is no part of the "costs incurred by the process," and is not a proper charge against the Government. (2 Comp. Dec., 224.)

1484. A clerk of court is entitled to fees for filing papers, in order to secure their preservation, and to other necessary services, although not connected with any case before the court. (11 Comp. MS. Dec., 315.)

1485. The clerk of court is not entitled to a fee for filing the oath of a marshal's clerk, there being no law requiring it to be filed by the clerk. (8 Comp. Dec., 479.)

FINAL RECORDS.

1486. A clerk is entitled to fees for recording, after the determination of prosecution, all the proceedings relating to it, including the order of commitment. (147 U. S., 672.)

1487. Clerk not entitled to fee for entering in final record proceedings before a committing magistrate, as, although they may properly be filed and a fee charged for filing, they form no part of the record. (147 U. S., 676.)

1488. The rule in *United States v. King*, that proceedings before a committing magistrate form no part of the final records applies to affidavits. (*U. S. v. Taylor*, 147 U. S., 695.)

1489. A clerk is not entitled in computing the folios in a final record, to treat each document, judgment, etc., as a separate instrument, but should count the folios of the record as one instrument continuously from beginning to end. (*U. S. v. Kurtz*, 164 U. S., 49.)

HABEAS CORPUS PROCEEDINGS.

1490. A clerk of a court is not entitled to fees from the United States for services in habeas corpus proceedings rendered at the request of the person applying for the writ. (2 Comp. Dec., 220.)

LIST OF JURORS.

1491. When a list of jurors with their residences is required to be made by the order or practice of the court, and to be posted up in the clerk's office or preserved in the files, and no other mode of compensating the clerk is provided, it may be charged for by the folio. (164 U. S., 49.)

MILEAGE.

1492. Mileage for travel to and from court is not a fee. (*Smith v. U. S.*, 158 U. S., 346.)

1493. If the court sits for any number of days in succession he (in this case the United States marshal) should continue in attendance, but if the court is adjourned over one or more intervening days, he is not obliged to remain at his own expense at the place of holding court, but may return to his home and charge travel for going anew to attend the term at the day to which it is adjourned. (*U. S. v. Harmon*, 147 U. S., 268.)

1494. Sunday is a nonjudicial day which does not interrupt the continuity of a term of court. A United States attorney is not entitled to mileage for his travel in going home on Saturday and returning to the place at which a term of the court is being held the following Monday. (*U. S. v. Shields*, 153 U. S., 88.)

1495. NOTE.—All the above decisions, as to mileage, though rendered in regard to other officers, apply to clerks, the law being the same as to both.

1496. A clerk of a court is not entitled, under section 828, Revised Statutes, to 5 cents a mile for travel by his deputy to attend court, but he is entitled to credit in his emolument account for the reasonable and necessary actual traveling expenses incurred by the deputy in making such travel, when approved by the Attorney-General. (5 Comp. Dec., 886.)

MITTIMUS.

1497. Where a prisoner, who was committed for trial to a jail remote from the place of holding court, is, after indictment, brought into court, and is by order thereof committed, pending trial, to the jail of the vicinage, the provision in section 1030, Revised Statutes, that no writ is necessary for remanding a prisoner into custody, does not apply, and the clerk of the court is entitled to a fee for issuing a mittimus in pursuance of such order. (7 Comp. Dec., 243.)

NOTICES.

1498. A notice given by order of court to a witness or juror, for whom process had previously issued, commanding him not to appear or to appear at another term, is not a writ within the meaning of paragraph 1 of section 828, Revised Statutes, which gives the clerk of court a fee of one dollar for issuing a writ. (Statement of the fees to be allowed for issuing such notices.) (4 Comp. Dec., 530.)

OATHS.

(As to recording and filing see *Entering* and *Filing* paragraphs 1462, 1476, and 1485.)

1499. Clerk not entitled to fees from the United States for administering oaths of office to deputy marshals, jury commissioners, bailiffs, district attorneys, or their assistants, the oaths being properly chargeable to the officers sworn. (140 U. S., 169.)

1500. The authority conferred by the act of May 28, 1896, upon clerks of courts to administer oaths, extends to their deputies. (7 Comp. MS. Dec., 672.)

1501. A clerk of court is entitled to the fee for administering the oath to a bailiff in charge of a jury, such oath not being the oath of office. (8 Comp. Dec., 479.)

1502. Fees of clerks of courts for administering oaths to witnesses as to the cor-

rectness of their expense accounts are payable from the appropriation for the fees of clerks, and they should be charged by the clerks in their accounts instead of being collected from the witnesses. (8 Comp. Dec., 191.)

1503. A clerk is entitled to fees for administering oaths to marshals and deputy marshals in support of explanations to their accounts furnished by them upon the call of the accounting officers. (2 Comp. Dec., 482.)

1504. A clerk of a court is entitled to fees for administering oaths to field deputy marshals who are required by the Attorney-General and the accounting officers to swear to their quarterly accounts for fees and expenses. (3 Comp. Dec., 700.)

PER DIEMS.

1505. When a clerk personally attends court in one place in his district and by deputy attends at another place on the same day, he is entitled to a per diem for each. (147 U. S., 676.)

1506. The district and circuit courts of the United States are always open for the transaction of some business which may be transacted under the orders of the judge in his absence, and on such transaction rest the plaintiff's claims in this case, which the court sustain as business which could be transacted by the clerk in the absence of the judge, following the departmental construction of the statutes. Of course if that construction were obviously or clearly wrong it would be the duty of the court to so adjudge; but if there simply be doubt as to the soundness of that construction, the action of the Government in conformity with it for many years should not be overruled except for cogent reasons. (U. S. v. Finnell, 185 U. S., 236.)

1507. The clerk is entitled to per diem fees for attendance upon the circuit or district court when the court has met and been opened and adjourned by the judge for one day or for more than one day successively and then adjourned by written order of the judge from day to day for any number of days so ordered. (U. S. v. Pitman, 147 U. S., 669.)

1508. A clerk of a circuit court is not entitled to a per diem pay for services in selecting juries in connection with the jury commissioner. (U. S. v. King, 147 U. S., 676.)

1509. A clerk of court is entitled to per diem compensation for attendance on court on a day on which business was "transacted by the clerk under orders of the judge," although the business transacted is the entry of orders made by the judge at another place and sent to the clerk. (8 Comp. Dec., 848.)

1510. Under the act of March 3, 1887, prohibiting the payment of per diem compensation to the clerk of a court "except for days when the court is opened by the judge for business, or business is actually transacted in court," etc., the clerk is entitled to such fees for a day on which the court is opened by the judge for business, although no business is actually transacted on that day. (4 Comp. Dec., 161.)

1511. Under section 671, Revised Statutes, when neither of the judges of a circuit court is present to open the session at any time during the term, the marshal may adjourn the court from day to day for three successive days, and the clerk is entitled to a per diem fee for attendance upon the court each of the four days the court is thus opened. (5 Comp. Dec., 403.)

1512. Under section 671, Revised Statutes, a marshal is not authorized to adjourn a circuit court from day to day after the first three days of the session, and the clerk of the court is not entitled to per diem fees for attendance on days when court is so adjourned by the marshal after that period. (4 Comp. Dec., 508.)

1513. A circuit court which is opened by the marshal or the clerk under an order of the judge, made while the court was in session, directing such opening in case

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neither of the judges should be present, is not opened under section 672, Revised Statutes, and the clerk is not entitled to per diem fees for attendance on such days. (6 Comp. Dec., 787.)

1514. A circuit court which was opened on thirty-six days under an order for each day signed by the district judge and dated accordingly was opened under section 672, Revised Statutes, and the clerk is entitled to per diem for attendance on those days. (16 Comp. MS. Dec., 554.)

1515. A district court which was opened every day, except Sunday, for a period of eleven days, under separate orders for each day, but without date, which directed the marshal to adjourn the court to the next day, for the reason that the judge was unable to attend, was not opened under section 583, Revised Statutes, and the clerk is not entitled to a per diem fee for attendance on any of those days. (13 Comp. MS. Dec., 733.)

1516. A clerk of court is not entitled to per diem fees for attendance at court where the record on the journal does not show that the court was actually in session and that he was present, either in person or by deputy, on the days for which such fees were charged. (6 Comp. Dec., 382.)

1517. A clerk of the district court for the Territory of New Mexico is not entitled to per diem compensation from the United States for attendance at times outside of the regular terms of that court, as fixed by the Territorial supreme court, under the provisions of section 1915, Revised Statutes. (7 Comp. Dec., 463.)

1518. A clerk of the United States district court for the Territory of Oklahoma is not entitled to a per diem fee for attendance on days when the court is engaged upon Territorial business only. (5 Comp. Dec., 741.)

RECOGNIZANCES.

1519. Recognizances may be taken either in open court, in which case a record entry is made of the fact upon the journal, or by a separate instrument signed and acknowledged before a proper officer. In the one case the clerk is entitled to a fee for making the entry, and in the other for drawing and filing the recognizance (*U. S. v. Barber*, 140 U. S., 164, 166, par. 3), but not for both. (*U. S. v. Payne*, 147 U. S., 687.)

1520. A clerk is not entitled to charge for taking separate recognizances of witnesses in criminal cases unless witnesses could not be conveniently recognized together. (147 U. S., 676.)

RECORDS.

1521. The act of February 6, 1889, allowing to a defendant as of right a writ of error to the Supreme Court in capital cases, without security for costs, and making it the duty of the clerk to certify up the record, does not authorize the clerk to charge against the United States fees for such services. (2 Comp. Dec., 612.)

REPORTS.

1522. A clerk is not entitled to fees for making separate reports of the amount of fees due each juror and witness. (147 U. S., 676.)

SEALS.

1523. A clerk of a court is entitled to the fee for affixing the seal to the certified copy of an order appointing a United States commissioner furnished the appointee, such appointee not having been an officer until he accepted his appointment. (8 Comp. Dec., 479.)

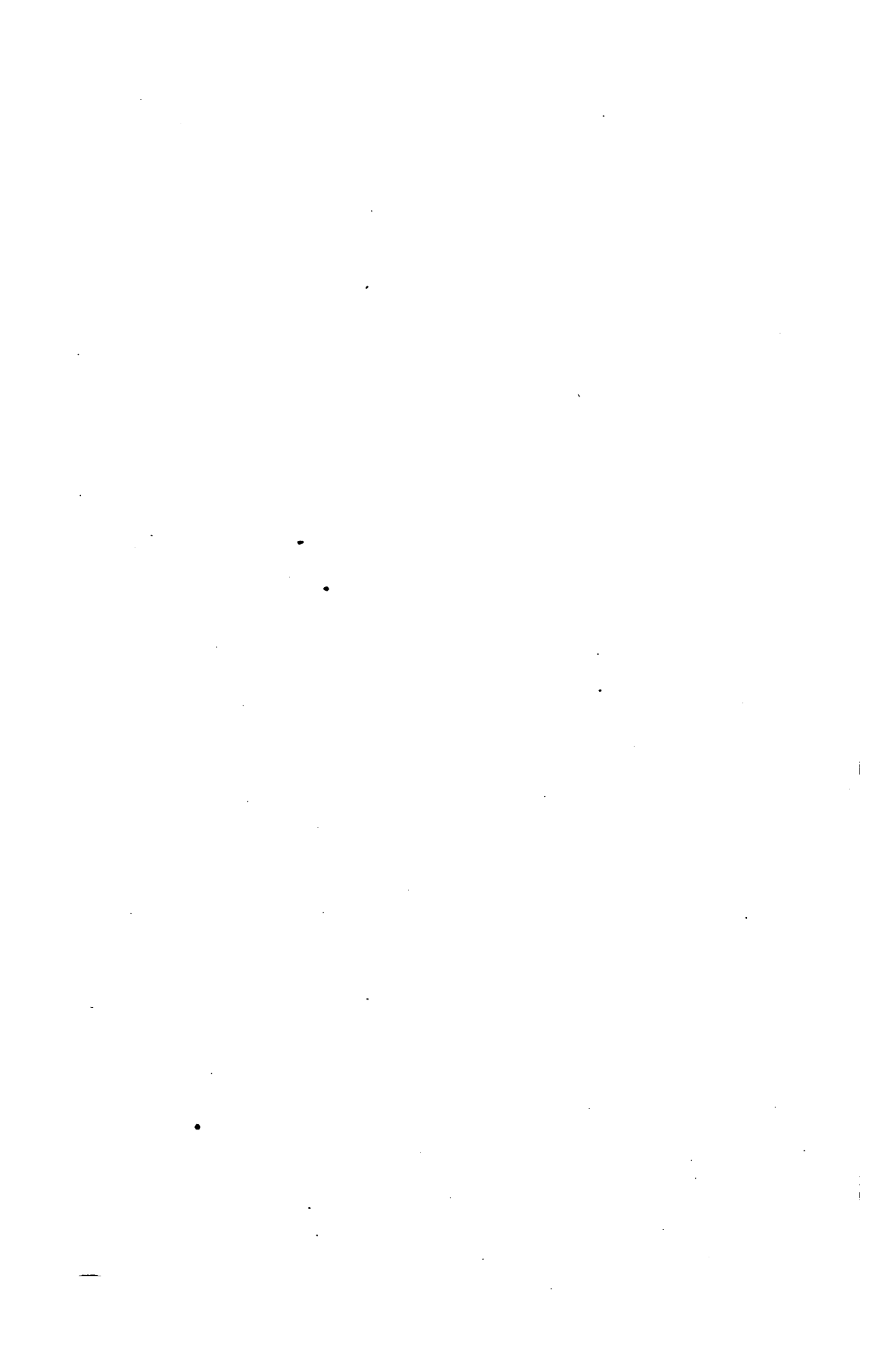
1524. A seal is not necessary to authenticate the certificate of a clerk of court which is for the use of officers of the court only, and the clerk is not entitled to a fee for affixing a seal thereto. (6 Comp. Dec., 540.)

1525. A clerk of court is not entitled to a fee for attaching a seal to a copy of an order of court where the order itself directs a "certified copy" only. (6 Comp. Dec., 900.)

1526. A clerk of court is not entitled to additional fees for affixing seals to subpoenas, the seal being a component part of the writ for the issuance of which a fee is provided. (8 Comp. Dec., 479.)

1527. The Attorney-General and the accounting officers are authorized to determine what evidence is necessary in support of disbursements made by a marshal, and where it is provided by regulations of the Attorney-General that certain certificates of clerks of courts are sufficient for that purpose without the seal of the court, and the accounting officers concur therein, an order of the court directing the clerk to attach the seal to such certificates does not make the seal necessary, and the clerk is not entitled to a fee therefor. (9 Comp. Dec., 405.)

(See also *Certificates*, paragraphs 1227 to 1229.)



PART FOUR.

INSTRUCTIONS TO UNITED STATES COMMISSIONERS.

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LAWS RELATING TO THE APPOINTMENT, QUALIFICATION, DUTIES, POWERS, AND COMPENSATION OF UNITED STATES COMMISSIONERS.

1529. Act of May 28, 1896 (29 Stat. L., 184):

SEC. 19. That the terms of office of all commissioners of the circuit courts heretofore appointed shall expire on the thirtieth day of June, eighteen hundred and ninety-seven; and such office shall on that day cease to exist, and said commissioners shall then deposit all the records and other official papers appertaining to their offices in the office of the clerk of the circuit court by which they were appointed. All proceedings pending, returnable, unexecuted, or unfinished at said date before any such commissioner shall be continued and disposed of according to law by such commissioner, appointed as herein provided, as may be designated by the district court for that purpose. It shall be the duty of the district court of each judicial district to appoint such number of persons, to be known as United States commissioners, at such places in the district as may be designated by the district court, which United States commissioners shall have the same powers and perform the same duties as are now imposed upon commissioners of the circuit courts. The appointment of such United States commissioners shall be entered of record in the district courts, and notice thereof at once given by the clerk to the Attorney-General. That such United States commissioners shall hold their offices, respectively, for the term of four years, but they shall be at any time subject to removal by the district court; and no person shall at any time be a clerk or deputy clerk of a United States court and a United States commissioner without the approval of the Attorney-General: *Provided*, That all acts and parts of acts applicable to commissioners of the circuit courts, except as to appointment and fees, shall be applicable to United States com-

missioners appointed under this act. Warrants of arrest for violations of internal-revenue laws may be issued by United States commissioners upon the sworn complaint of a United States district attorney, assistant United States district attorney, collector or deputy collector of internal revenue, or revenue agent or private citizen, but no such warrant of arrest shall be issued upon the sworn complaint of a private citizen unless first approved in writing by a United States district attorney. That United States commissioners and all clerks of United States courts are hereby authorized to administer oaths.

1530. SEC. 20. That no marshal or deputy marshal, attorney or assistant attorney of any district, jury commissioner, clerk of marshal, no bailiff, crier, juror, janitor of any Government building, nor any civil or military employee of the Government, except as in this act provided, and no clerk or employee of any United States justice or judge shall have, hold, or exercise the duties of the United States commissioner. And it shall not be lawful to appoint any of the officers named in this section receiver or receivers in any case or cases now pending or that may be hereafter brought in the courts of the United States.

1531. SEC. 21. That each United States commissioner shall be entitled to the following-named fees, and none other:

1532. Drawing a complaint, with oath and jurat to same, fifty cents;

1533. Copy of complaint, with certificate to same, thirty cents;

1534. Issuing warrant of arrest, seventy-five cents;

1535. Issuing a commitment and making copy of same, one dollar;

1536. Entering a return, fifteen cents;

1537. Issuing subpoena or subpoenas in any one case, with five cents for each necessary witness in addition to the first, twenty-five cents;

1538. Drawing a bond of defendant and sureties, taking acknowledgment of same and justification of sureties, seventy-five cents;

1539. For administering an oath (except to witness as to attendance and travel), ten cents;

1540. Recognizance of all witnesses in a case, when the defendant or defendants are held for court, fifty cents;

1541. Transcripts of proceedings, when required by order of court, and transmission of original papers to court, sixty cents;

1542. Copy of warrant of arrest, with certificate to same, when defendant is held for court, and the original papers are not sent to court, forty cents;

1543. Order in duplicate to pay all witnesses in a case: For first witness, thirty cents, and for each additional witness, five cents, and for oath to each witness as to attendance and travel, five cents;

1544. For hearing and deciding on criminal charges and reducing the testimony to writing when required by law or order of court, five dollars a day for the time necessarily employed:

1545. *Provided*, That not more than one per diem shall be allowed in a case, unless the account shall show that the hearing could not be completed in one day, when one additional per diem may be specially approved and allowed by the court;

1546. *Provided further*, That not more than one per diem shall be allowed for any one day;

1547. *Provided further*, That no per diem shall be allowed for taking a bond or recognizance and passing on the sufficiency of the bond or recognizance and the sureties thereon when the bond or recognizance was taken after the defendant had been committed to prison upon a final commitment, or has given bond or been recognized for his appearance at court, or when the defendant has been arrested on a

capias or bench warrant, or was in custody under any process or order of a court of record.

1548. For the examination and certificate in cases of application for discharge of poor convicts imprisoned for nonpayment of fine or fine and costs, and all services connected therewith, three dollars;

1549. For attending to a reference in a litigated matter, in a civil cause at law, in equity, or in admiralty, in pursuance of an order of the court, three dollars a day;

1550. For taking and certifying depositions to file in civil cases, ten cents for each folio;

1551. For each copy of the same furnished to a party on request, ten cents for each folio;

1552. For issuing any warrant under the tenth article of the treaty of August ninth, eighteen hundred and forty-two, between the United States and the Queen of the United Kingdom of Great Britain and Ireland, against any parties charged with any crime or offense set forth in said article, two dollars;

1553. For issuing any warrant under the provision of the convention for the surrender of criminals between the United States and the King of the French, concluded at Washington, November ninth, eighteen hundred and forty-three, two dollars;

1554. For hearing and deciding upon the case of any person charged with any crime or offense, and arrested under the provisions of said treaty or of said convention, five dollars a day for the time necessarily employed.

1555. Such commissioners shall keep a complete record of all proceedings before them in criminal cases, in a well-bound book, which record book shall be delivered to and preserved by the clerk of the district court for such district on the death, resignation, removal, or expiration of term of the commissioner, for which record the commissioner shall receive no compensation.

1556. Act of July 31, 1894 (28 Stat. L., 207, 208, 209), relating to forwarding accounts and the revision of accounts by the Comptroller of the Treasury:

SEC. 8. The balances which may from time to time be certified by the Auditors to the Division of Bookkeeping and Warrants, or to the Postmaster-General, upon the settlements of public accounts, shall be final and conclusive upon the executive branch of the Government, except that any person whose accounts may have been settled, the head of the Executive Department, or of the board, commission, or establishment not under the jurisdiction of an Executive Department to which the account pertains, or the Comptroller of the Treasury, may within a year obtain a revision of said account by the Comptroller of the Treasury, whose decision upon such revision shall be final and conclusive upon the executive branch of the Government. * * *

1557. Any person accepting payment under a settlement by an Auditor shall be thereby precluded from obtaining a revision of such settlement as to any items upon which payment is accepted; but nothing in this act shall prevent an Auditor from suspending items in an account in order to obtain further evidence or explanations necessary to their settlement. When suspended items are finally settled, a revision may be had as in the case of the original settlement.

1558. SEC. 12. All monthly accounts shall be mailed or otherwise sent to the proper officer at Washington within ten days after the end of the month to which they relate, and *quarterly and other accounts within twenty days after the period to which they relate,*

1559. And shall be transmitted to and received by the Auditors within twenty days of their actual receipt at the proper office in Washington in the case of monthly, and sixty days in the case of quarterly and other accounts.

1560. Act of August 18, 1894 (28 Stat. L., 416), relating to copies of complaints:

That it shall be the duty of the marshal, his deputy, or other officer who may arrest a person charged with any crime or offense, to take the defendant before the nearest circuit court commissioner, or the nearest judicial officer having jurisdiction under existing laws, for a hearing, commitment, or taking bail for trial, and the officer or magistrate issuing the warrant shall attach thereto a certified copy of the complaint, and upon the arrest of the accused the return of the warrant, with a copy of the complaint attached, shall confer jurisdiction upon such officer as fully as if the complaint had originally been made before him.

1561. Act of August 3, 1882 (22 Stat. L., 216), relating to fees and costs in extradition cases:

SEC. 4. That all witness fees and costs of every nature in cases of extradition, including the fees of the commissioner, shall be certified by the judge or commissioner before whom the hearing shall take place to the Secretary of State of the United States. * * *

1562. Act of June 28, 1902 (32 Stat. L., 475), relating to the same subject:

Provided, That from and after June thirtieth, nineteen hundred and three, all the fees and costs in extradition cases shall be paid out of the appropriations to defray the expenses of the judiciary, and the Attorney-General shall certify to the Secretary of State the amounts to be paid to the United States on account of said fees and costs in extradition cases, by the foreign government requesting the extradition, and the Secretary of State shall cause said amounts to be collected and transmitted to the Attorney-General for deposit in the Treasury of the United States.

1563. Act of March 3, 1901 (31 Stat. L., 1093), relating to cases under the Chinese exclusion laws:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for the district attorney of the district in which any Chinese person may be arrested for being found unlawfully within the United States, or having unlawfully entered the United States, to designate the United States commissioner within such district before whom such Chinese person shall be taken for hearing.

1564. SEC. 2. That a United States commissioner shall be entitled to receive a fee of five dollars for hearing and deciding a case arising under the Chinese exclusion laws.

1565. SEC. 3. That no warrant of arrest for violations of the Chinese exclusion laws shall be issued by United States commissioners excepting upon the sworn complaint of a United States district attorney, assistant United States district attorney, collector, deputy collector, or inspector of customs, immigration inspector, United States marshal, or deputy United States marshal, or Chinese inspector, unless the issuing of such warrant of arrest shall first be approved or requested in writing by the United States district attorney of the district in which issued.

DECISIONS.

APPOINTMENT.

1566. Under the provision of the act of May 28, 1896, that no "military employee of the Government * * * shall have, hold, or exercise the duties" of United States commissioner, a commissioner who enlisted in the Army vacated his office,

and in resuming the exercise of the duties of the office after his discharge he became a *de facto* officer only. (6 Comp. Dec., 454.)

1567. The same person can not legally hold the offices of United States commissioner for two judicial districts at the same time, and the acceptance of an appointment as commissioner of another district operates to divest the incumbent of the title to the office so held by him. (7 Comp. Dec., 230.)

1568. An appointment of a United States commissioner by a district court, which was made to take effect at a prior date, is inoperative prior to the date when it was actually made. (9 Comp. Dec., 167.)

1569. A United States commissioner whose term of office expired April 15, 1902, and who was reappointed on July 30, 1902, but who acted as commissioner continuously, was a *de facto* officer only during the interval between those dates, and he is not entitled to compensation for services performed as such. (9 Comp. Dec., 167.)

APPROVAL OF ACCOUNTS BY THE COURT.

1570. The accounting officers of the Treasury have no jurisdiction to consider items in a fee account of an officer of a United States court unless such items are approved by the court as required by the act of February 22, 1875. (2 Comp. Dec., 223.)

1571. Where the court does not approve a commissioner's per diems for days to which he had continued cases on trial before him, no fees can be allowed for services rendered necessary by and incident to such continuances. (2 Comp. Dec., 223.)

1572. The disapproval by a court of an item in an account of a United States commissioner submitted to the court for approval or disapproval, as required by law, is conclusive upon the accounting officers. (5 Comp. Dec., 131.)

APPROVAL OF COMPLAINTS.

1573. Under section 19 of the act of May 28, 1896, a United States commissioner has no authority to issue a warrant on the complaint of a deputy marshal who arrested a defendant in the act of operating an illicit distillery, the complaint not having been approved by the district attorney before the warrant was issued, and he is not entitled to the fees therefor. (4 Comp. Dec., 338.)

1574. A United States commissioner is not authorized to issue a warrant of arrest [in an internal-revenue case] upon a complaint made by a deputy marshal or by a storekeeper and gauger without the approval of the district attorney, as required by the act of May 28, 1896. (4 Comp. Dec., 448.)

1575. Under the act of May 28, 1896, which provides that no warrant of arrest for violations of the internal-revenue laws shall be issued upon the complaint of a private citizen "unless first approved in writing" by a district attorney, the issue of a warrant upon a complaint made by a field deputy marshal, which was approved by the district attorney by telephone, even though subsequently reduced to writing, is not authorized. (6 Comp. Dec., 113.)

BOND.

See APPROVAL OF ACCOUNTS BY THE COURT, PAR. 1571; SURRENDER OF DEFENDANT BY SURETIES, PAR. 1631.

1576. When a circuit court commissioner can take a recognizance for attendance from day to day he will not be allowed fees for the taking of more than one temporary recognizance in any one case. (1 Comp. Dec., 536.)

1577. Section 1014 of the Revised Statutes, which provides that the proceedings for the arrest, imprisonment, or bailing of a person charged with an offense against the United States shall be assimilated to the practice under the State statutes, does not relate to the manner in which a forfeited bail bond shall be collected, and a United States commissioner is not entitled to fees for services rendered in enforcing the payment of such a bond. (3 Comp. Dec., 595.)

1578. Under the provision in the act of May 28, 1896, that United States commissioners shall be entitled to a fee of 75 cents for "drawing a bond of defendant and sureties, taking acknowledgment of same and justification of sureties," the commissioner before whom the case is pending in connection with which the bond is drawn, and who finally passes upon its sufficiency, is entitled to the fees prescribed, though the defendant may procure the acknowledgment of the sureties to the bond before another officer. (4 Comp. Dec., 472.)

COLLECTION OF FEES.

1578a. A United States commissioner is not entitled to fees not provided for by law, notwithstanding that such fees were taxed and collected as costs against a defendant. (9 Comp. Dec., 649.)

COMMITMENT.

See APPROVAL OF ACCOUNTS BY THE COURT, PAR. 1571; SURRENDER OF DEFENDANT BY SURETIES; PAR. 1631; WARRANT, PAR. 1641, 1645.

1579. A commissioner will not be allowed fees for issuing a temporary mittimus for the custody of a defendant for part of a day only, except in extraordinary cases showing the necessity therefor, as it is ordinarily the duty of the marshal to keep the defendant in custody. (2 Comp. Dec., 382.)

1580. The issue of a temporary mittimus is not necessary on an ordinary adjournment pending examination; therefore, in cases where the necessity exists, it must be affirmatively shown. (5 Comp. Dec., 172.)

1581. Where the statutes of a State in which the arrest and examination of an offender are made provide that commitment for examination shall be by indorsement on the warrant of arrest, a United States commissioner is not entitled to the fee provided by the act of May 28, 1896, for issuing a temporary mittimus. (5 Comp. Dec., 172.)

1582. A United States commissioner who abused the discretion confided in him by law by issuing temporary commitments which he knew would not be executed committed a fraud, and he will be recharged with fees allowed to him in the settlement of his accounts. (7 Comp. MS. Dec., 637, 727.)

1583. Only one mittimus, either temporary or final, is necessary to commit the defendant for examination or trial, although he is held for two or more offenses. (5 Comp. Dec., 320.)

1584. Where the statutes of a State or the practice therein authorizes the commitment to jail of an offender in default of bail, upon a necessary adjournment for a day or more, pending an examination before a United States commissioner, and the jailer refuses to receive the prisoner without a mittimus, the commissioner is entitled to a fee for the issuing thereof. [See paragraph 1581.] (5 Comp. Dec., 502.)

1585. Where a defendant who has been arrested on a *capias* issued by a United States court is brought before a United States commissioner to give bail, the commissioner is authorized to commit the defendant in default of bail, and if the *capias* does not contain a mittimus for the defendant the commissioner is entitled to the fee provided by law for issuing the writ. (8 Comp. Dec., 414.)

1586. When a United States commissioner has finally committed a defendant for trial, he is without authority to order his removal from one jail and recommit him to another, and he is not entitled to fees for issuing a second mittimus for that purpose. (9 Comp. Dec., 111.)

COMPLAINT.

See APPROVAL OF COMPLAINTS, Pars. 1573, 1574, 1575; JOINT OFFENDERS, Pars. 1607, 1608.

1587. A commissioner is not entitled to a fee for drawing a complaint when the paper is not in fact drawn by him but by the special counsel for the Government. (3 Comp. Dec., 61.)

COMPLAINT NOT SWORN TO.

1588. A United States commissioner is not entitled to any fees in cases wherein the complaint upon which the warrant of arrest was issued was not actually sworn to to before him or some other officer authorized to administer oaths. (6 Comp. Dec., 147.)

CONSTRUCTIVE FEES.

1589. The act of May 28, 1896, which prescribes fees for services of United States commissioners, provides that they shall be entitled to the fees therein specified "and none other," and thus prohibits the allowance of all constructive fees. (4 Comp. Dec., 239.)

CONTEMPT.

1590. The power to punish for contempt is not conferred upon commissioners of the circuit courts by law, nor can such power be given by a rule of court. (1 Comp. Dec., 222.)

1591. A United States commissioner has not authority to punish an obstreperous witness for misconduct in the commissioner's presence. (18 Comp. MS. Dec., 341.)

COPY OF COMPLAINT.

1592. A United States commissioner is not entitled to a fee for "copy of complaint and certificate to attach to search warrant," there being no fee provided by law for this service and such copy not being necessary. (Comptroller's decision, June 2, 1898.)

1593. A United States commissioner is not entitled to fees for copies of complaints unless they are actually made and attached to the warrants, as required by the act of August 18, 1894. (6 Comp. Dec., 147.)

COPY OF WARRANT.

See TRANSCRIPT, Par. 1634.

1594. Where a rule of court requires a commissioner to send up to the court the original papers no fees will be allowed for copies of process to be sent up, as such copies are unnecessary. (1 Comp. Dec., 76.)

DEFENDANT'S WITNESSES.

1595. A circuit court commissioner, in a State where the law requires the hearing of evidence offered by the defendant, is entitled under the provisions of section 1014, Revised Statutes, to fees for swearing defendant's witnesses. (1 Comp. Dec., 536.)

1596. Under the act of March 16, 1878, which makes a person charged with crime a competent witness in any proceeding against him, a United States commissioner is entitled to a fee for swearing the defendant as a witness. (4 Comp. Dec., 324.)

1597. The provision in the act of May 28, 1896, which authorizes payment to United States commissioners of a fee "for administering an oath" applies to an oath administered to a defendant under the Chinese exclusion acts. (5 Comp. Dec., 79.)

ENTERING A RETURN.

See MANDATE, Par. 1609.

1598. A United States commissioner is not entitled to fees for entering returns on warrants of arrest when such warrants are not executed. (2 Comp. Dec., 70.)

1599. "Entering a return," for which, by the act of May 28, 1896, a United States commissioner is entitled to a fee of 15 cents, consists in making a full record in his docket of the marshal's return, as indorsed on the writ, and not in making a mere statement of the fact that the writ was executed, returned, and filed. (6 Comp. Dec., 285.)

ERRONEOUS ALLOWANCE.

1600. The action of the accounting officers in erroneously allowing and paying certain fees charged by an officer in one account does not justify the allowance of similar fees in subsequent accounts if the fees are not authorized by law. (3 Comp. Dec., 595.)

FEES NOT PROVIDED FOR BY LAW.

See COLLECTION OF FEES, Par. 1578 a.

HEARING AND DECIDING A CHINESE CASE.

1601. For services arising under the Chinese exclusion laws a United States commissioner is entitled to the fee provided by the act of March 3, 1901, for "hearing and deciding," and to the fees provided by the act of May 28, 1896, for taking complaint, issuing process, and for other miscellaneous services rendered in each case. (8 Comp. Dec., 195.)

1602. The fee provided by the act of March 3, 1901, for United States commissioners "for hearing and deciding a case arising under the Chinese exclusion laws" is not a case fee or a per diem fee, but is a specific fee chargeable in each case only upon the rendition of judgment therein. (8 Comp. Dec., 195.)

1603. Where a United States commissioner suspended judgment in a Chinese exclusion case to enable the defendant to present further evidence, there was no final judgment rendered by him, and he is not entitled to the fee provided by law for hearing and deciding. (9 Comp. Dec., 171.)

1604. Where a defendant in a Chinese-exclusion case gave bond for his appearance before a United States commissioner for trial, and afterwards defaulted and forfeited his bond, and the commissioner certified such facts to the district court, which thereupon issued a writ of scire facias for the collection of the penalty upon the bond, the commissioner is not entitled to the fees provided for by the act of March 3, 1901, for "hearing and deciding" a case. (9 Comp. Dec., 649.)

INTERPRETER.

1605. The administration of oaths and the issuing of certificates by a United States commissioner to interpreters as to their attendance before him are unnecessary, and the commissioner is not entitled to fees therefor. (5 Comp. Dec., 857.)

JOINT OFFENDERS.

1606. A United States commissioner is not entitled to fees for issuing two warrants for the arrest of two persons charged with having jointly committed the same offense, in a case in which there was no necessity for the issuing of separate warrants for each. (5 Comp. Dec., 75.)

1607. In an examination before a United States commissioner the complaint, and not the warrant of arrest is the basis of the proceeding, and where two or more persons are charged with a joint offense one complaint is sufficient, but if necessary a separate warrant of arrest may be issued against each defendant; but where the same person is charged with two or more offenses separate complaints may be taken, but if taken at the same time only one warrant of arrest is necessary. (5 Comp. Dec., 320.)

1608. A United States commissioner who takes a separate complaint and issues a separate warrant against each of two or more joint offenders, in a case in which the making of separate complaints and the issuing of separate warrants are not necessary, is entitled to such fees only as he would have been entitled to had he made only one case against the joint defendants. (6 Comp. Dec., 285.)

JURISDICTION.

See CONTEMPT, Pars. 1590, 1591; REMOVAL OF OFFENDERS, Par. 1620; REOPENING CASE, Par. 1621; UBPOENA, Pars. 1625, 1627; WARRANT, Pars. 1641, 1643.

MANDATE.

1609. There is no provision of law for compensating United States commissioners for issuing warrants or mandates to bring prisoners before them to give bail; but under the provision for "entering a return" they are entitled to the fee provided therefor for entering returns of such warrants or mandates. (9 Comp. Dec., 226.)

OATHS.

See DEFENDANT'S WITNESSES, Pars. 1595, 1596, 1597; INTERPRETER, Par. 1605.

1610. A commissioner is not entitled to a fee from the United States for administering to a marshal the oath required by the act of February 22, 1875, to be taken by the marshal in proving his accounts before presenting them for the approval of the court. (2 Comp. Dec., 426.)

1611. Fees of clerks of courts for administering oaths to witnesses as to the correctness of their expense accounts are payable from the appropriation for fees of clerks, and they should be charged by the clerks in their accounts instead of being collected from the witnesses. (8 Comp. Dec., 191.) [Applies also to commissioners.]

ORDER FOR PAYMENT OF WITNESSES.

See INTERPRETER, Par. 1605.

1612. The provision in section 21 of the act of May 28, 1896, which prescribes that United States commissioners shall receive for "order in duplicate to pay all

witnesses in a case," etc., applies to all witnesses who attend in a case, including all continuances thereof. (4 Comp. Dec., 350.)

ORDER OF DEPORTATION.

1613. For issuing orders for the deportation of Chinese persons a United States commissioner is entitled to the fees provided by the act of May 28, 1896, for issuing commitments, when such orders are in fact commitments. (5 Comp. MS. Dec., 860.)

PER DIEM.

See REFERENCE, PAR. 1618, 1619; REOPENING CASE, PAR. 1621; TESTIMONY, PAR. 1632.

1614. A United States commissioner is not entitled to a per diem fee under section 847, Revised Statutes, as for "hearing and deciding on criminal charges," when the only action taken by him is to admit the defendant to bail to appear before another commissioner for hearing upon the criminal charge. (2 Comp. Dec., 281.)

1615. Under the act of May 28, 1896, which prescribes the fees which a United States commissioner shall receive for services rendered by him, a commissioner is not entitled to a per diem for services rendered under section 1019, Revised Statutes, preliminary to taking new bonds of defendants who had previously given bonds for their appearance in court. (4 Comp. Dec., 465.)

1616. Under the provision "that not more than one per diem shall be allowed in a case, unless the account shall show that the hearing could not be completed in one day," a United States commissioner is not entitled to a per diem for *deciding* only, on the *second* day, a case in which the *hearing* had been fully completed on the *first* day. (4 Comp. Dec., 472.)

1617. The examination of witnesses is not a necessary condition to a preliminary examination before a United States commissioner, and where a defendant waives examination and is held for trial the "hearing and deciding" is complete. (7 Comp. Dec., 578.)

REFERENCE.

1618. A United States commissioner who is appointed by the court as a special referee in a case in which the United States is plaintiff, can be allowed only the fee of \$3 a day provided by the commissioner's fee bill for "attending to a reference in a litigated matter." (4 Comp. Dec., 400.)

1619. The per diem fee provided by the act of May 28, 1896, "for attending to a reference in a litigated matter," etc., does not exclude fees provided therein for other services. (5 Comp. Dec., 87.)

REMOVAL OF OFFENDERS.

1620. Sections 1014 and 1029, Revised Statutes, provide a complete mode of procedure for the commitment and removal of an offender committed in a district other than that where the offense is to be tried, and the commissioner of the district to which the offender is removed is not entitled to fees for proceedings had before him, such proceedings being without authority of law. (7 Comp. Dec., 578.)

REOPENING CASE.

1621. A United States commissioner in the State of Texas who has taken final action by recognizing the defendant to appear at court is without jurisdiction to subsequently reopen the case and discharge the defendant, and for such service he is not entitled to a per diem fee. (3 Comp. Dec., 209.)

SEAL.

1622. United States commissioners are not required by law to have official seals, and oaths administered by them to officers of the Government in verification of their accounts for expenses are valid without attestation by seal. (8 Comp. Dec., 575.)

SERVICES NOT PERFORMED WHEN ACCOUNT RENDERED.

1623. A United States commissioner is not entitled to fees for services which had not been performed by him at the time he rendered his account therefor, even though he subsequently performed the services. (6 Comp. Dec., 285.)

STATE PRACTICE.

See COMMITMENT, Pars. 1581, 1584.

1624. Under section 1014, Revised Statutes, which provides for the arrest of certain offenders, it is a well-settled rule that United States commissioners must conform to the practice prescribed by the statutes of the State wherein the arrest is made, without regard to the fees to be earned by them. (5 Comp. Dec., 172.)

SUBPOENA.

See WARRANT, Pars. 1641, 1645.

1625. A subpoena issued by a United States commissioner does not run outside of the district of the commissioner who issued it. (8 Comp. Dec., 276.)

1626. A circuit or district court is authorized to issue a subpoena for a witness outside of the district of a United States commissioner to appear before him. (9 Comp. Dec., 86.)

1627. A United States commissioner is not authorized to issue a subpoena for a witness outside of his district, and a witness attending before a commissioner upon a subpoena issued by him is entitled to mileage for travel within his district only. (9 Comp. Dec., 121.)

SUPPLEMENTAL ACCOUNTS.

1628. Under Department Circular No. 127, of 1896, which provides that all items claimed for fees or allowances must be included in the account of the officer for the period in which they accrued, a supplemental account of a circuit court commissioner for fees earned from July 1, 1891, to June 30, 1897, will not be considered, no satisfactory reason having been shown for the failure to include such items in his accounts rendered for that period. (5 Comp. Dec., 511.)

1629. A restatement by a United States commissioner of an account for fees disallowed by the Auditor does not constitute a "supplemental account" within the meaning of Department Circular No. 127, of 1896, and the Comptroller is not authorized to revise such restated account, the original account having been certified more than a year before the filing of the application for revision. (6 Comp. Dec., 655.)

1630. A change in the rulings of the accounting officers is not sufficient cause for the waiver of Department Circular No. 127, of 1896, relating to the rendition of supplemental accounts. (9 Comp. Dec., 117.)

SURRENDER OF DEFENDANT BY SURETIES.

1631. Under section 1018, Revised Statutes, the surrender of a defendant by his sureties is authorized during a vacation of the court only, and a United States com-

missioner is not entitled to fees in proceedings against a defendant so surrendered during a session of the court. (6 Comp. Dec., 308.)

TESTIMONY.

See TRANSCRIPT, Par. 1637.

1632. The per diem fee is the only compensation provided for reducing testimony to writing. (4 Comp. Dec., 239.)

TRANSCRIPT.

1633. A United States commissioner is entitled to fees for making a transcript of proceedings in a case where the defendant is discharged as well as in a case where he is held, when the rule of court requiring the transcript, and the practice thereunder, requires the making of the transcript in both cases. (2 Comp. Dec., 67.)

1634. The clauses in the fee bill which prescribe fees for "transcripts of proceedings, when required by order of court, and transmission of original papers to court, sixty cents;" and for "copy of warrant of arrest, with certificate to same, when defendant is held for court, and the original papers are *not* sent to court, forty cents;" are alternative, and both fees can not be earned in the same case. (4 Comp. Dec., 239.)

1635. A United States commissioner is not entitled to fees for making transcripts of proceedings under the Chinese exclusion acts where the defendants have been discharged, although made under an order of court requiring transcripts of proceedings generally, the court having no original jurisdiction of this class of cases. (8 Comp. Dec., 760.)

1636. An order of a district court to a United States commissioner to transmit to the clerk of the court transcripts of proceedings in cases under the Chinese exclusion acts from which no appeal has been taken is without force, and the commissioner is not entitled to fees for making such transcripts. (21 Comp. MS. Dec., 214.)

1637. A rule of court requiring a United States commissioner to reduce the testimony in cases before him to writing and to return it with the original papers does not require him to make a transcript of the proceedings, and for such service he is not entitled to the fee provided by law for "transcripts of proceedings." (9 Comp. Dec., 169.)

1638. Where there is no rule of court requiring a United States commissioner to transmit "transcripts of proceedings" in cases before him, and where the only service performed by the commissioner was the transmission to the court of the original papers, he is not entitled to the fee provided by law for "transcripts of proceedings." (9 Comp. Dec., 171.)

WARRANT.

See APPROVAL OF COMPLAINTS, PARS. 1573, 1574, 1575; JOINT OFFENDERS, PARS. 1606, 1607, 1608; MANDATE, Par. 1609.

1639. The issuance of a warrant implies the delivery of the warrant to some person authorized to serve it, and a commissioner is not entitled to a fee for preparing a warrant of arrest which is not so delivered. (4 Comp. Dec., 239.)

1640. If, in an examination before a United States commissioner, it is developed that the defendant has committed an offense other than that charged, he may be held for the additional offense without issuing a warrant of arrest therefor. (5 Comp. Dec., 320.)

1641. Warrants of arrest or other writs issued by a United States commissioner and delivered for service to a person not authorized by law to serve them are not

legally issued, and the commissioner is not entitled to fees for issuing them. But if the defendant submits to the jurisdiction of the commissioner without objection, thereby waiving the regularity, acts of the commissioner subsequent thereto are legal and he is entitled to the fees provided therefor. (5 Comp. Dec., 863.)

1642. A United States commissioner who hears the case of a defendant brought before him on a warrant illegally issued by another commissioner is entitled to the fees provided by law for his services, unless the fact that the warrant was illegally issued is disclosed upon its face. (6 Comp. Dec., 304.)

1643. Under the laws and regulations for the government of the Navy, a United States commissioner is not authorized to issue a warrant for the arrest of a deserter from the Navy. (6 Comp. Dec., 741.)

1644. Where a defendant was brought before a United States commissioner upon a warrant charging him with an offense committed in the district, and was discharged, the commissioner is entitled to fees for issuing a second warrant upon a complaint charging him with an offense committed in a foreign district and upon which he was committed to await removal. (7 Comp. Dec., 798.)

1645. Inspectors of customs are not authorized to execute process, and a United States commissioner is not entitled to a fee for issuing a process to such officers for execution. (21 Comp. MS. Dec., 214.)

DOCKETS AND PAPERS.

1646. A suitable docket must be procured and every item of service in each case entered at the time the service is rendered. Special attention is invited to the requirement of section 21, act of May 28, 1896 (paragraph 1555, *ante*), that the record of proceedings kept in the docket must be a "*complete* record." This should include the name of the defendant, the name and official title, if any, of the person who makes the complaint, the date of approval of the complaint by the district attorney when such approval is necessary, the nature of the offense charged with the place and date (including month and day) of its alleged commission, the place and date of arrest, the disposition of the case, the name and residence of each witness for whom a subpoena is issued or who is sworn, and whether each is subpoenaed or sworn for the United States or for the defendant, the name and residence of each surety, the date of each item of service in the case, the necessity for each continuance, a full copy of the return made by the marshal on each writ, and any other material facts.

1647. If a rule of court requires the transmission of the original papers to court, all the papers in a case should be sent up immediately after the close of the hearing or at the time directed in the rule of court.

1648. When original papers are not sent to court they should be kept carefully filed in regular order, all the papers in each case in a separate package. For filing and preserving papers the use of file boxes is recommended.

1649. Statutes, blanks, stationery, dockets, etc., are not furnished to United States commissioners by the Department or at public expense.

ACCOUNTS.

PREPARATION.

1650. All accounts of United States commissioners must be rendered quarterly and be forwarded to the district attorney to be presented to the court for approval in accordance with section 1 of the act of February 22, 1875 (paragraph 234).

1651. Section 12 of the act of July 31, 1894 (paragraph 1558), requires that each quarterly account of a commissioner shall be transmitted to the Department of Justice within twenty days after the close of the quarter to which it relates. The quarters of a fiscal year end, respectively, September 30, December 31, March 31, and June 30.

1652. Each account of a United States commissioner must include all charges for services rendered during the quarter covered by the account. When the complaint in a case is drawn in one quarter and the hearing is not completed in the same quarter, nevertheless the charge for *each service* must be made in the account for the quarter in which the service *was rendered*.

1653. Commissioners should bear in mind the fact that each charge in their accounts is supposed to represent some service actually and necessarily performed. Especial attention is invited to the fee for entering returns on warrants, subpoenas, and commitments. In order to earn this fee the return as indorsed by the marshal on the writ must be actually entered in full on the commissioner's docket. (See 6 Comp. Dec., 285, paragraph 1599.)

1654. Accounts should be made upon paper 8½ inches wide and 14 inches long. Printed blanks should be used wherever practicable. Only one side of the paper must be used. Only one case should be put on a page.

1655. The following form is recommended for use by United States commissioners in rendering their accounts:

United States, to....., U. S. Commissioner for the..... District of....., Dr.
(If complaint is made by an officer, give title.)

UNITED STATES vs. 	Complaint made by His official title Offense charged, vio. sec. R. S. U. S. *Complaint approved by U. S. attorney..... day of, 190.. Offense committed at On the..... day of, 190.. Def't arrested at on, 190.. Disposition of case.....
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* Complaints by private citizens in internal-revenue cases must be approved in writing by district attorney before issuance of warrants. As to who are private citizens, see Pars. 1573 and 1574.

Dates. 190—.	Warrant issued by			Amount brought forward.
	....., 190— (See paragraphs 1659 and 1660.)			
.....	Drawing complaint, with oath and jurat to same.....			
.....	Copy of complaint, with certificate to same			
.....	Issuing warrant of arrest, 75 cents			
.....	Entering marshal's return, warrant of arrest.....			
.....	Issuing subpoena or subpoenas in said case, 25 cents; with 5 cents for each of — witnesses in addition to the first, — cents			
.....	Entering return of subpoena			
.....	Drawing temporary bond of defendant and sure- ties, taking acknowledgment of same, and justification of sureties.....			
.....	Issuing temporary commitment and making copy of same, \$1			
.....	Entering return of temporary commitment			
.....	Administering oaths to — U. S. witnesses on trial			
.....	Hearing and deciding on criminal charges and reducing the testimony to writing when re- quired by law or order of court.....			
.....	Drawing final bond of defendant and sureties, taking acknowledgment of same, and justifica- tion of sureties.....			
.....	Issuing final commitment and making copy of same, \$1.....			
.....	Entering return of final commitment			
.....	Recognizance of all witnesses in the case, de- fendant being held for court			
.....	Oath to — U. S. witnesses as to attendance and travel, 5 cents each			
.....	Order in duplicate to pay first witness on be- half of U. S., 30 cents, and 5 cents for each of — additional U. S. witnesses, — cents			
.....	Transcript of proceedings required by order of court and transmission of original papers to court.....			
.....	Copy of warrant of arrest, with certificate to same, defendant being held for court and original papers not sent to court.....			
.....	Examination and certificate under section 1042, R. S., and all services connected therewith (date of commitment to serve sentence, —, —, 190—; period of imprisonment named in sen- tence —; amount of fine and costs, \$—)			
	Total fees in case.....			
	Amount carried forward.....			

Witnesses in above case. (See Pars. 1666 and 1667.)		Sureties of defendants in above recognizances.	
Name.	Residence.	Name.	Residence.
.....	P. O., .....	.....	P. O.,
.....	"	"
.....	"	"
.....	"	"

Remarks:

1656. The pages of each account or voucher must be numbered consecutively in the lower left-hand corner, the footing of the first page carried to the top of the next page, and so on to the last page of the account or voucher; and a schedule of the cases must be attached to the account.

1657. Make an entry on the first page of the account as follows, with the blank spaces filled:

Account of....., United States commissioner for the....district of....., residing at, for the quarter ending, 190—.

1658. Give the title of each case, the name of the complaining witness and his official title, if he have any; the offense charged, mentioning the section violated; the place where and the time when the offense was committed, the place and date of arrest, and the disposition of the case. The commissioner should then enter the several items of service rendered in the case during the quarter, being very careful to give dates on the left-hand margin, opposite the several charges.

1659. If warrant was issued in a previous quarter, give date of issuance.

1660. If warrant was issued by another commissioner, his name and date of warrant must be given in addition to the information required in paragraph 1658.

1661. The several cases should be entered in the account in the order of time when each was begun, but all charges for services must be made in the account for the quarter in which the services were rendered.

1662. Fees for all services of every nature for which a commissioner is authorized to charge the United States rendered in a given quarter should be included in a single account, whether for services in criminal cases or otherwise.

1663. If the defendant is before the commissioner when the warrant is issued or it is clear that the defendant will be brought before him for examination or trial, a copy of the complaint is not necessary.

1664. When a mittimus issued and a bond taken in a case on the same day are charged, the necessity for the mittimus must be shown; and when a temporary mittimus is issued or a temporary bond or recognizance is taken on the day upon which the case is disposed of, the necessity for the same must be stated.

1665. When a commissioner charges more than one per diem in a case the account in which the second per diem is charged must show why the hearing could not be completed in one day. Such showing should be made on the page on which the second per diem is charged and before the approval of the account, otherwise the district attorney should object to the approval of the second per diem.

1666. The names and residences of witnesses for the United States, sureties on bonds, and interpreters must be given at the foot of the

page. When fees for issuing subpoenas, for oaths to witnesses, or for orders for payment of witnesses are charged, the names of the witnesses must be furnished.

1667. When fees are charged for subpoenas for defendants' witnesses or for swearing such witnesses, their names and residences must also be stated, but separate from the names of the witnesses for the United States.

1668. When separate proceedings are instituted or conducted against joint offenders, it should be clearly shown in the account that such severance was necessary to the proper examination of the case.

1669. Commissioners are authorized to accept the surrender of defendants only in a vacation of the court to which such defendants are bound. It should be shown in each case wherein charges incident to a surrender are made that the defendant was surrendered in a vacation of the court.

1670. When a defendant is brought before a commissioner otherwise than upon a commissioner's warrant, the account should show how the commissioner acquired jurisdiction, i. e., whether under a *capias*, upon surrender by sureties, or otherwise.

1671. Each charge for discharging a poor convict under section 1042, Revised Statutes, should be accompanied by a statement showing clearly the date of commitment to serve sentence, the period of imprisonment, if any, named in the sentence, the amount of the fine and costs adjudged against the defendant, and the date of discharge.

1672. When fees are charged for attending to a reference, a copy of the order of reference should be attached to the account.

1673. When an account of actual expenses of a clerk or other officer of the United States who attends as a witness is verified before a United States commissioner, the fee for such verification should be charged in the commissioner's regular quarterly account. It should not be collected from the officer or allowed in his account of expenses. (See 8 Comp. Dec., 191, paragraph 1611.)

EXTRADITION CASES.

1674. Only those commissioners who are specially authorized by the court have jurisdiction of extradition cases. (See sec. 5270, Rev. Stat.) Evidence of such authorization must be furnished.

1675. Charges of a commissioner for services rendered after June 30, 1903, in extradition cases should be included in his regular quarterly accounts against the United States. The fees properly chargeable in such cases are those prescribed in section 21, act of May 28, 1896 (paragraphs 1531 to 1555), and not those prescribed in section 2, act of August 3, 1882 (22 Stat. L., 216).

1676. The allowance of a commissioner's fees in an extradition case

charged in an account covering the quarter during which the case was concluded will be made only after the commissioner has transmitted to this Department an itemized and certified statement showing the fees and costs of every nature in such case, including his own fees, the fees and expenses of the United States marshal, fees of witnesses, cost of support of prisoner or prisoners, and all other expenses incurred therein by the United States. Such statement of costs is separate and distinct from his quarterly account, and should be prepared and forwarded as soon as the total costs in the case have been ascertained. This statement is to be used in collecting the amount due from the foreign government.

1677. If it is found necessary to employ an interpreter in an extradition case, the district attorney should apply to this Department for authority to do so. In case the representative of the foreign government desires to employ a stenographer to expedite the hearing, the stenographer should be paid by such representative and not by the marshal.

1678. No money should be received by the commissioner or the marshal from any source other than the United States on account of fees or expenses of any character in connection with extradition cases.

1679. *Careful compliance by commissioners with all the foregoing instructions will obviate the necessity for much correspondence and greatly expedite the examination and settlement of their accounts.*

FORM OF AFFIDAVIT BY A UNITED STATES COMMISSIONER TO HIS ACCOUNT.

1680.

UNITED STATES OF AMERICA,

.....District of.....

I,, United States commissioner for the.....district of....., being duly sworn, depose and say that the foregoing account, amounting to \$....., is just and true, as stated therein; that no payment has been received by me on account thereof, and that the services therein charged have been actually and necessarily performed as stated; that in no internal-revenue case mentioned in said account was the warrant issued upon the sworn complaint of a private citizen unless first approved in writing by the United States district attorney, and that in each case wherein two per diems are charged in the account the hearing could not be completed in one day.

United States Commissioner.

Subscribed and sworn to before the undersigned this.....day of....., 190...

1681. The signature of a notary public, clerk of State or county court, or other State or county official before whom a commissioner's account is sworn to should be attested by the official seal of the official administering the oath unless such official is not required by law to use a seal in attesting his signature.

FORM OF CERTIFICATE OF THE DISTRICT ATTORNEY.

1682. The following certificate (Amended Form No. 473) must be attached to each account in which a United States commissioner charges fees in an internal-revenue case or cases, or in a case or cases arising under the Chinese-exclusion laws:

(1) I,, United States district attorney for the.....district of, hereby certify that I have examined the account of....., United States commissioner for the said district, for the quarter ending....., 190.., and that in no internal-revenue case mentioned in said account was the warrant of arrest issued upon the sworn complaint of a *private citizen** unless first approved in writing by the district attorney;

(2) And that in each case commenced since March 2, 1901, under the Chinese-exclusion laws, wherein charges are made in this account, the warrant of arrest was issued upon the sworn complaint of a United States district attorney, assistant United States district attorney, collector, deputy collector, or inspector of customs, immigration inspector, United States marshal, or deputy United States marshal, or Chinese inspector, or that the issuance of such warrant of arrest was first approved or requested in writing by the United States district attorney of the district in which issued.

.....
United States District Attorney.

FORM OF ORDER APPROVING AN ACCOUNT OF A UNITED STATES COMMISSIONER, AND CERTIFICATE THERETO.

1683.

Whereas....., United States commissioner for the.....district of, has forwarded an account for his official services for the quarter ended, 190.., duly certified by oath attached to the account, and the district attorney has submitted said account for approval in open court, and it appearing to the satisfaction of the court that the services therein charged have been actually and necessarily performed as therein stated; and it being proved to the satisfaction of the court that in each of the cases wherein more than one per diem is charged the hearing could not be completed in one day, two per diems in each of said cases are specially approved and allowed by the court; and whereas the charges in said account appear to be just and according to law, it is ordered that said account, amounting to..... (\$.....), be, and the same is hereby, approved this.....day of, 190..

UNITED STATES OF AMERICA,

.....District of....., ss:

I,, clerk of the.....court for the said district, do hereby certify that the foregoing is a true copy of an order entered upon the journal of said court.

Witness my official signature and the seal of said court, at.....this.....day of, A. D. 190..

....., Clerk.
By....., Deputy.

*The Comptroller of the Treasury has decided that within the meaning of the proviso to section 19 of the act of May 28, 1896, all persons other than the officers mentioned in said proviso are *private citizens*.

EXPLANATIONS.**TO THE DEPARTMENT OF JUSTICE.**

1684. Responses to all calls from the Department of Justice for information relative to accounts should be made *in duplicate* and forwarded to this Department. When required, they should also be under oath. Such responses should always be promptly forwarded, in order that the Department may comply with the requirements of the act of July 31, 1894 (paragraph 1559).

TO THE AUDITOR FOR THE STATE AND OTHER DEPARTMENTS.

1685. When a statement is received from the Auditor the commissioner should note carefully as to each item whether it is *suspended* or *disallowed*. The Auditor can not reconsider *disallowed* items and explanations, as such items should not be sent to him. Explanations as to disallowed items should be sent to the Comptroller of the Treasury, if the commissioner desires a revision of the Auditor's action.

1686. Explanations as to *suspended* items should be addressed and sent only to "The Auditor for the State and other Departments." They should not be sent to the Department of Justice or the Comptroller of the Treasury. Such explanations need not be made in duplicate, but should be sworn to. If not sworn to when questions of fact are involved, they will be returned for correction. See Treasury circular of January 31, 1898.

1687. In all letters to the Auditor relating to accounts, the accounts should be referred to by certificate numbers.

MISCELLANEOUS.

1688. The pay roll of witnesses in each case should be forwarded to the marshal immediately after the close of the case.

1689. For form of witness pay roll to be used by United States commissioners, see paragraph 806. As to the preparation of witness rolls, and the allowance of witness fees or actual expenses, attention of commissioners is directed to paragraphs 765 to 793, 805 to 808, 811 to 814 and 819.

1690. All writs issued by commissioners for service must be sent to the marshal's office to be docketed, and not handed directly to the officer who is to serve the same, except in cases wherein the delay caused by sending the writ to the marshal's office would permit the defendant to escape or would materially increase the expense of the proceeding, or when for some other good reason it is desirable that the writ be served without delay. In such case the emergency must be real and fully

shown on the account, and also entered at large in the docket of the commissioner.

1691. All correspondence which United States commissioners are required by law to conduct as commissioners may be transmitted in the mails, free of postage, under cover of penalty envelopes.

ACCOUNTS OF JUSTICES OF THE PEACE AND OTHER COMMITTING MAGISTRATES OF STATES AND TERRITORIES.

1692. When such committing magistrate renders service in a case wherein the defendant is charged with a violation of a law of the United States, he should charge the fees to which he would be entitled under the laws of his State or Territory for like services.

1693. He should make out his account in all respects as that of a United States commissioner, except that instead of the fees provided for United States commissioners he should charge the fees provided by the State or Territorial law. The account must be verified by his affidavit and forwarded to the United States attorney for his district, to be by him presented to the court for approval.

1694. There is no law of the United States fixing the fees of justices of the peace or other committing magistrates of a State or Territory for such services, and the Comptrollers have invariably held that charges therefor must be made under the State or Territorial fee bill.

1695. In the absence of any provision of law regulating the fees to be paid to justices of the peace or other State officers acting as committing magistrates under the Federal statutes, the uniform practice of the accounting officers to allow to such officers the same fees as they receive for like services in State cases will be continued. (1 Comp. Dec., 54.)

1696. The examination of such an account will be facilitated by citing the law under which the fees are charged. References to State or Territorial laws should be by date and section of code, revised statutes of State or Territory, or act of State or Territorial legislature. For example, "section 5200, code of 1898," or "section 3, act of July 10, 1903."

1697. If an account is not properly rendered it may be returned for correction or restatement.

APPENDIX.



APPENDIX.

ACT OF MAY 28, 1896.

The following is so much of the act of May 28, 1896 (29 Stat. L., 179), as relates to the duties and compensation of marshals, attorneys, and commissioners:

SEC. 6. That on and after the first day of July, eighteen hundred and ninety-six, all fees and emoluments authorized by law to be paid to United States district attorneys and United States marshals shall be charged as heretofore, and shall be collected, as far as possible, and paid to the clerk of the court having jurisdiction, and by him covered into the Treasury of the United States; and said officers shall be paid for their official services, which, in the case of district attorneys, shall include services in the circuit courts of appeals of their respective circuits wherever sitting, salaries and compensation hereinafter provided and not otherwise: *Provided*, That this section shall not be construed to require or authorize fees to be charged against or collected from the United States, except as provided by sections eleven and thirteen of this act relating to field deputies and their payments.

SEC. 7. That the United States district attorney for each of the following judicial districts of the United States shall be paid in lieu of the salaries, fees, per centums, and other compensations now allowed by law an annual salary as follows: * * *

SEC. 8. That whenever, in the opinion of the district judge of any district, or the chief justice of any Territory and the district attorney, evidenced by writing, the public interest requires it, one or more assistant district attorneys may be appointed, by the Attorney-General; but such opinion shall state to the Attorney-General the facts as distinguished from conclusions, showing the necessity therefor. Such assistant district attorneys shall be paid such salary as the Attorney-General may from time to time determine as to each, which shall in no case exceed two thousand five hundred dollars per annum: *Provided*, That the necessary expenses for lodging and subsistence actually paid, not exceeding four dollars per day and actual and necessary traveling expenses of the district attorney and his assistants, while absent from their respective official residences and necessarily employed in going to, returning from, and attending before any United States court, commissioner, or other committing magistrate, and while otherwise necessarily absent from their respective official residences on official business, shall be allowed and paid in the manner hereinafter provided.

The Attorney-General is authorized to fix and declare the place of the official residence of the district attorney and of each of his assistants: *Provided*, That the said assistants must be residents of the district for which they are appointed.

SEC. 9. That the United States marshal for each judicial district of the United States shall be paid, in lieu of the salaries, fees, per centums, and other compensation now allowed by law, an annual salary as follows: * * *

SEC. 10. That when in the opinion of the Attorney-General the public interest

requires it, he may, on the recommendation of the marshal, which recommendation shall state the facts as distinguished from conclusions, showing necessity for the same, allow the marshals to employ necessary office deputies and clerical assistance, upon salaries to be fixed by the Attorney-General, from time to time, and paid as hereinafter provided. When any of such office deputies is engaged in the service or attempted service of any writ, process, subpoena, or other order of the court, or when necessarily absent from the place of his regular employment, on official business, he shall be allowed his actual traveling expenses only, and his necessary and actual expenses for lodging and subsistence, not to exceed two dollars per day, and the necessary actual expenses in transporting prisoners, including necessary guard hire; and he shall make and render accounts thereof as hereinafter provided.

SEC. 11. That at any time when, in the opinion of the marshal of any district, the public interest will thereby be promoted, he may appoint one or more deputy marshals for such district, who shall be known as field deputies, and, who, unless sooner removed by the district court as now provided by law, shall hold office during the pleasure of the marshal, except as hereinafter provided, and who shall each, as his compensation, receive three-fourths of the gross fees, including mileage, as provided by law, earned by him, not to exceed one thousand five hundred dollars per fiscal year, or at that rate for any part of a fiscal year; and in addition shall be allowed his actual necessary expenses, not exceeding two dollars a day, while endeavoring to arrest, under process, a person charged with or convicted of crime: *Provided*, That a field deputy may elect to receive actual expenses on any trip in lieu of mileage: *Provided*, That in special cases, where in his judgment justice requires, the Attorney-General may make an additional allowance, not, however, in any case to make the aggregate annual compensation of any field deputy in excess of twenty-five hundred dollars nor more than three-fourths of the gross fees earned by such field deputy. The marshal, immediately after making any appointment or appointments under this section, shall report the same to the Attorney-General, stating the facts as distinguished from conclusions constituting the reason for such appointment, and the Attorney-General may at any time cancel any such appointment as the public interest may require. The field deputies herein provided for of the districts of California, Colorado, Washington, Montana, North Dakota, South Dakota, Nevada, Oregon, Wyoming, and Idaho shall, for the services they may perform during the fiscal year eighteen hundred and ninety-seven, receive double the fees allowed by law to like officers in other States for performing similar duties, but neither of them shall be allowed to receive of such fees any sum exceeding the aggregate compensation of such officer as provided herein.

SEC. 12. That the marshal, when attending court at any place other than his official residence, and when engaged in the service or attempted service of any process, writ, or subpoena, and when otherwise necessarily absent from his official residence on official business, shall be allowed his necessary expenses for lodging and subsistence, not exceeding four dollars per day and his actual necessary traveling expenses. He shall also be allowed the actual necessary expenses in transporting prisoners, including necessary guard hire. An account of such expenses shall be made out and paid as hereinafter provided. The marshal's official residence shall be deemed to be at one of the places of holding court in the district, and the Attorney-General shall be authorized to fix and declare the place of such official residence.

SEC. 13. That whenever in this act an officer is allowed actual expenses the account therefor shall be made out quarterly, in accordance with rules and regulations prescribed by the Attorney-General. When made out the account shall be verified on oath before an officer authorized to administer oaths.

The expense accounts of the marshals and their office deputies and the accounts of the field deputies shall be paid by the marshals; said accounts and the expense accounts of the district attorneys and their assistants when made out in accordance

with this act shall be submitted to and examined by the circuit court or district court of the district, and when approved by the court shall be audited and allowed as now provided by law. Each marshal shall make such returns of the earnings and expenses of his office as shall be required under rules and regulations prescribed by the Attorney-General: *Provided*, That no office or field deputy shall receive compensation as bailiff, and no field deputy shall receive fees for representing the marshal in court.

SEC. 14. That the necessary office expenses of the district attorneys and marshals shall be allowed when authorized by the Attorney-General.

SEC. 15. That the district attorney of any judicial district, when the facts showing the necessity therefor are certified by the district judge to the Attorney-General, may, with the approval of the Attorney-General, and no longer than such approval lasts, employ necessary clerical assistance at such salary or salaries as shall be from time to time fixed by the Attorney-General.

SEC. 16. That all salaries provided by sections six to fifteen, inclusive, of this act shall be paid monthly by the Department of Justice.

SEC. 17. That sections six to fifteen, inclusive, of this act shall not be so construed as to prevent or affect the amount or taxation of costs against the unsuccessful party in civil proceedings or against defendants convicted of crimes or misdemeanors.

SEC. 18. That any officer whose compensation is fixed by sections six to fifteen, inclusive, of this act who shall directly or indirectly demand, receive, or accept any fee or compensation for the performance of any official service other than is herein provided, or shall willfully fail or neglect to account for or pay over to the proper officer any fee received or collected by him shall, upon conviction thereof, be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment, at the discretion of the court, not exceeding five years, or by both such fine and imprisonment.

SEC. 19. That the terms of office of all commissioners of the circuit courts heretofore appointed shall expire on the thirtieth day of June, eighteen hundred and ninety-seven; and such office shall on that day cease to exist, and said commissioners shall then deposit all the records and other official papers appertaining to their offices in the office of the clerk of the circuit court by which they were appointed. All proceedings pending, returnable, unexecuted, or unfinished at said date before any such commissioner shall be continued and disposed of according to law by such commissioner appointed as herein provided, as may be designated by the district court for that purpose. It shall be the duty of the district court of each judicial district to appoint such number of persons, to be known as United States commissioners, at such places in the district as may be designated by the district court, which United States commissioners shall have the same powers and perform the same duties as are now imposed upon commissioners of the circuit courts. The appointment of such United States commissioners shall be entered of record in the district courts, and notice thereof at once given by the clerk to the Attorney-General. That such United States commissioners shall hold their offices, respectively, for the term of four years, but they shall be at any time subject to removal by the district court; and no person shall at any time be a clerk or deputy clerk of a United States court and a United States commissioner without the approval of the Attorney-General: *Provided*, That all acts and parts of acts applicable to commissioners of the circuit courts, except as to appointment and fees, shall be applicable to United States commissioners appointed under this act. Warrants of arrest for violations of internal-revenue laws may be issued by United States commissioners upon the sworn complaint of a United States district attorney, assistant United States district attorney, collector or deputy collector of internal revenue, or revenue agent or private citizen, but no such warrant of arrest shall be issued upon the sworn complaint of a private citizen unless first approved in writing by a United States district attorney. That

United States commissioners and all clerks of United States courts are hereby authorized to administer oaths.

SEC. 20. That no marshal or deputy marshal, attorney or assistant attorney of any district, jury commissioner, clerk of marshal, no bailiff, crier, juror, janitor of any Government building, nor any civil or military employee of the Government, except as in, this act provided, and no clerk or employee of any United States justice or judge shall have, hold, or exercise the duties of the United States commissioner. And it shall not be lawful to appoint any of the officers named in this section receiver, or receivers in any case or cases now pending or that may be hereafter brought in the courts of the United States.

SEC. 21. That each United States commissioner shall be entitled to the following-named fees, and none other: Drawing a complaint, with oath and jurat to same, fifty cents; copy of complaint, with certificate to same, thirty cents; issuing warrant of arrest, seventy-five cents; issuing a commitment and making copy of same, one dollar; entering a return, fifteen cents; issuing subpoena or subpoenas in any one case, with five cents for each necessary witness in addition to the first, twenty-five cents; drawing a bond of defendant and sureties, taking acknowledgment of same and justification of sureties, seventy-five cents; for administering an oath (except to witness as to attendance and travel), ten cents; recognizance of all witnesses in a case, when the defendant or defendants are held for court, fifty cents; transcripts of proceedings, when required by order of court and transmission of original papers to court, sixty cents; copy of warrant of arrest, with certificate to same, when defendant is held for court, and the original papers are not sent to court, forty cents; order in duplicate to pay all witnesses in a case: For first witness, thirty cents, and for each additional witness, five cents, and for oath to each witness as to attendance and travel, five cents; for hearing and deciding on criminal charges and reducing the testimony to writing when required by law or order of court, five dollars a day for the time necessarily employed: *Provided*, That not more than one per diem shall be allowed in a case, unless the account shall show that the hearing could not be completed in one day, when one additional per diem may be specially approved and allowed by the court: *Provided further*, That not more than one per diem shall be allowed for any one day: *Provided further*, That no per diem shall be allowed for taking a bond or recognizance and passing on the sufficiency of the bond or recognizance and the sureties thereon when the bond or recognizance was taken after the defendant had been committed to prison upon a final commitment, or has given bond or been recognized for his appearance at court, or when the defendant has been arrested on a *capias* or bench warrant, or was in custody under any process or order of a court of record. For the examination and certificate in cases of application for discharge of poor convicts imprisoned for nonpayment of fine or fine and costs, and all services connected therewith, three dollars; for attending to a reference in a litigated matter, in a civil cause at law, in equity, or in admiralty, in pursuance of an order of the court, three dollars a day; for taking and certifying depositions to file in civil cases, ten cents for each folio; for each copy of the same furnished to a party on request, ten cents for each folio; for issuing any warrant under the tenth article of the treaty of August ninth, eighteen hundred and forty-two, between the United States and the Queen of the United Kingdom of Great Britain and Ireland, against any parties charged with any crime or offense set forth in said article, two dollars; for issuing any warrant under the provision of the convention for the surrender of criminals between the United States and the King of the French, concluded at Washington, November ninth, eighteen hundred and forty-three, two dollars; for hearing and deciding upon the case of any person charged with any crime or offense, and arrested under the provisions of said treaty or of said convention, five dollars a day for the time necessarily employed.

Such commissioners shall keep a complete record of all proceedings before them in criminal cases, in a well-bound book, which record book shall be delivered to and preserved by the clerk of the district court for such district on the death, resignation, removal, or expiration of term of the commissioner, for which record the commissioner shall receive no compensation.

SEC. 22. That it shall be the duty of the Attorney-General of the United States to make an investigation as respects the compensation to be paid, by salary or otherwise, to clerks of United States circuit and district courts; and he shall report on the first day of the next session of the present Congress a plan for fixing such compensation for the clerks of the several courts of the United States as he may deem just, and he shall also recommend with his report such provisions as may to him seem proper touching their appointment and the performance of their duties.

SEC. 23. The Attorney-General shall, in his annual report to Congress each year, include a statement in detail showing for the preceding fiscal year the number of assistant district attorneys employed, the salaries of each; the number of clerical assistants employed for each district attorney, the salaries of each; the amount expended for necessary subsistence, and actual and necessary traveling expenses of each district attorney and his assistants; the number of office deputies and clerical assistants employed for each marshal, the salaries paid to each; the amount expended for necessary subsistence and actual and necessary traveling expenses of each marshal and his office deputies, and the number of field deputy marshals employed by each marshal and the amount of fees earned by and the compensation paid to each of them out of such fees.

SEC. 24. That all acts and portions of acts inconsistent with this act are hereby repealed: *Provided*, That none of the provisions of sections six to twenty-three, both inclusive, of this act shall apply to the Indian Territory or Territory of Alaska, and said sections shall take effect and be in force on and after the first day of July, eighteen hundred and ninety-six, except as in said sections otherwise specially provided: *Provided further*, That none of the provisions of sections six, eight or fifteen of this act shall apply to the office of the United States district attorney and his assistants for the southern district of New York, or for the District of Columbia.

requires it, he may, on the recommendation of the marshal, which recommendation shall state the facts as distinguished from conclusions, showing necessity for the same, allow the marshals to employ necessary office deputies and clerical assistance, upon salaries to be fixed by the Attorney-General, from time to time, and paid as hereinafter provided. When any of such office deputies is engaged in the service or attempted service of any writ, process, subpoena, or other order of the court, or when necessarily absent from the place of his regular employment, on official business, he shall be allowed his actual traveling expenses only, and his necessary and actual expenses for lodging and subsistence, not to exceed two dollars per day, and the necessary actual expenses in transporting prisoners, including necessary guard hire; and he shall make and render accounts thereof as hereinafter provided.

SEC. 11. That at any time when, in the opinion of the marshal of any district, the public interest will thereby be promoted, he may appoint one or more deputy marshals for such district, who shall be known as field deputies, and, who, unless sooner removed by the district court as now provided by law, shall hold office during the pleasure of the marshal, except as hereinafter provided, and who shall each, as his compensation, receive three-fourths of the gross fees, including mileage, as provided by law, earned by him, not to exceed one thousand five hundred dollars per fiscal year, or at that rate for any part of a fiscal year; and in addition shall be allowed his actual necessary expenses, not exceeding two dollars a day, while endeavoring to arrest, under process, a person charged with or convicted of crime: *Provided*, That a field deputy may elect to receive actual expenses on any trip in lieu of mileage: *Provided*, That in special cases, where in his judgment justice requires, the Attorney-General may make an additional allowance, not, however, in any case to make the aggregate annual compensation of any field deputy in excess of twenty-five hundred dollars nor more than three-fourths of the gross fees earned by such field deputy. The marshal, immediately after making any appointment or appointments under this section, shall report the same to the Attorney-General, stating the facts as distinguished from conclusions constituting the reason for such appointment, and the Attorney-General may at any time cancel any such appointment as the public interest may require. The field deputies herein provided for of the districts of California, Colorado, Washington, Montana, North Dakota, South Dakota, Nevada, Oregon, Wyoming, and Idaho shall, for the services they may perform during the fiscal year eighteen hundred and ninety-seven, receive double the fees allowed by law to like officers in other States for performing similar duties, but neither of them shall be allowed to receive of such fees any sum exceeding the aggregate compensation of such officer as provided herein.

SEC. 12. That the marshal, when attending court at any place other than his official residence, and when engaged in the service or attempted service of any process, writ, or subpoena, and when otherwise necessarily absent from his official residence on official business, shall be allowed his necessary expenses for lodging and subsistence, not exceeding four dollars per day and his actual necessary traveling expenses. He shall also be allowed the actual necessary expenses in transporting prisoners, including necessary guard hire. An account of such expenses shall be made out and paid as hereinafter provided. The marshal's official residence shall be deemed to be at one of the places of holding court in the district, and the Attorney-General shall be authorized to fix and declare the place of such official residence.

SEC. 13. That whenever in this act an officer is allowed actual expenses the account therefor shall be made out quarterly, in accordance with rules and regulations prescribed by the Attorney-General. When made out the account shall be verified on oath before an officer authorized to administer oaths.

The expense accounts of the marshals and their office deputies and the accounts of the field deputies shall be paid by the marshals; said accounts and the expense accounts of the district attorneys and their assistants when made out in accordance

with this act shall be submitted to and examined by the circuit court or district court of the district, and when approved by the court shall be audited and allowed as now provided by law. Each marshal shall make such returns of the earnings and expenses of his office as shall be required under rules and regulations prescribed by the Attorney-General: *Provided*, That no office or field deputy shall receive compensation as bailiff, and no field deputy shall receive fees for representing the marshal in court.

SEC. 14. That the necessary office expenses of the district attorneys and marshals shall be allowed when authorized by the Attorney-General.

SEC. 15. That the district attorney of any judicial district, when the facts showing the necessity therefor are certified by the district judge to the Attorney-General, may, with the approval of the Attorney-General, and no longer than such approval lasts, employ necessary clerical assistance at such salary or salaries as shall be from time to time fixed by the Attorney-General.

SEC. 16. That all salaries provided by sections six to fifteen, inclusive, of this act shall be paid monthly by the Department of Justice.

SEC. 17. That sections six to fifteen, inclusive, of this act shall not be so construed as to prevent or affect the amount or taxation of costs against the unsuccessful party in civil proceedings or against defendants convicted of crimes or misdemeanors.

SEC. 18. That any officer whose compensation is fixed by sections six to fifteen, inclusive, of this act who shall directly or indirectly demand, receive, or accept any fee or compensation for the performance of any official service other than is herein provided, or shall willfully fail or neglect to account for or pay over to the proper officer any fee received or collected by him shall, upon conviction thereof, be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment, at the discretion of the court, not exceeding five years, or by both such fine and imprisonment.

SEC. 19. That the terms of office of all commissioners of the circuit courts heretofore appointed shall expire on the thirtieth day of June, eighteen hundred and ninety-seven; and such office shall on that day cease to exist, and said commissioners shall then deposit all the records and other official papers appertaining to their offices in the office of the clerk of the circuit court by which they were appointed. All proceedings pending, returnable, unexecuted, or unfinished at said date before any such commissioner shall be continued and disposed of according to law by such commissioner appointed as herein provided, as may be designated by the district court for that purpose. It shall be the duty of the district court of each judicial district to appoint such number of persons, to be known as United States commissioners, at such places in the district as may be designated by the district court, which United States commissioners shall have the same powers and perform the same duties as are now imposed upon commissioners of the circuit courts. The appointment of such United States commissioners shall be entered of record in the district courts, and notice thereof at once given by the clerk to the Attorney-General. That such United States commissioners shall hold their offices, respectively, for the term of four years, but they shall be at any time subject to removal by the district court; and no person shall at any time be a clerk or deputy clerk of a United States court and a United States commissioner without the approval of the Attorney-General: *Provided*, That all acts and parts of acts applicable to commissioners of the circuit courts, except as to appointment and fees, shall be applicable to United States commissioners appointed under this act. Warrants of arrest for violations of internal-revenue laws may be issued by United States commissioners upon the sworn complaint of a United States district attorney, assistant United States district attorney, collector or deputy collector of internal revenue, or revenue agent or private citizen, but no such warrant of arrest shall be issued upon the sworn complaint of a private citizen unless first approved in writing by a United States district attorney. That

Columbia, S. C.	Columbus, O.	Concord, N. H.
0	0	0
750	817	2,062
981	1,286	1,360
743	626	429
133	572	1,016
628	213	1,775
525	993	445
210	442	164
615	737	2,372
831	1,837	963
375	181	1,502
688	655	1,328
655	795	816
949	546	1,544
870	234	1,491
269	798	1,140
791	709	1,315
990	452	132
403	697	1,219
045	815	139
527	416	3,187
905	811	2,899
160	2,652	1,772
141	2,117	790
630	1,096	607
236	575	3,247
391	544	1,358
962	2,514	3,181
252	714	2,540
090	2,611	2,325
286	1,807	1,154
907	1,544	1,646
844	373	1,363
046	864	1,523
431	906	322
165	742	
669	580	

twenty words, exclusive of place from and date, the rates here prescribed shall as to such company thenceforth during the year be reduced to the rates so charged to the public.

The statutes provide that telegrams between the several Departments of the Government and their officers and agents, in their transmission over the lines of any such company, shall have priority over all other business. All officers of the United States sending such telegrams should indorse thereon the words "Official Business," and should report to the Postmaster-General any failure to transmit them in such priority, and any charge made in excess of the rates above prescribed.

Each company will be allowed to charge for messages received from another line at the same rate as if received from the Government direct, at the point of transfer for transmission over its own line.

H. C. PAYNE, *Postmaster-General.*

Schedule of rates for Government telegrams on and after July 1, 1903.

Number of words.	Rate for twenty words and multiples of twenty, and for words additional to twenty or any multiple thereof.						
	Day messages.					Night messages.	
	1,000 miles.	1,500 miles.	2,000 miles.	2,500 miles.	3,000 miles or more.	2,000 miles.	Over 2,000 miles.
20	\$0.20	\$0.25	\$0.30	\$0.35	\$0.40	\$0.15	\$0.25
40	.40	.50	.60	.70	.80	.35	.45
60	.60	.75	.90	1.05	1.20	.55	.65
80	.80	1.00	1.20	1.40	1.60	.75	.85
100	1.00	1.25	1.50	1.75	2.00	.95	1.05
200	2.00	2.50	3.00	3.50	4.00	1.95	2.05
300	3.00	3.75	4.50	5.25	6.00	2.95	3.05
400	4.00	5.00	6.00	7.00	8.00	3.95	4.05
500	5.00	6.25	7.50	8.75	10.00	4.95	5.05
1	.01	.01	.02	.02	.02	.01	.01
2	.02	.03	.03	.04	.04	.02	.02
3	.03	.04	.05	.05	.06	.03	.03
4	.04	.05	.06	.07	.08	.04	.04
5	.05	.06	.08	.09	.10	.05	.05
6	.06	.08	.09	.11	.12	.06	.06
7	.07	.09	.11	.12	.14	.07	.07
8	.08	.10	.12	.14	.16	.08	.08
9	.09	.11	.14	.16	.18	.09	.09
10	.10	.13	.15	.18	.20	.10	.10
11	.11	.14	.17	.19	.22	.11	.11
12	.12	.15	.18	.21	.24	.12	.12
13	.13	.16	.20	.23	.26	.13	.13
14	.14	.18	.21	.25	.28	.14	.14
15	.15	.19	.23	.26	.30	.15	.15
16	.16	.20	.24	.28	.32	.16	.16
17	.17	.21	.26	.30	.34	.17	.17
18	.18	.23	.27	.32	.36	.18	.18
19	.19	.24	.29	.33	.38	.19	.19

**MEMORANDA RELATIVE TO THE EXTRADITION OF FUGITIVES
FROM THE UNITED STATES IN FOREIGN JURISDICTION.**

IN CASES WHERE INDICTMENT HAS BEEN FOUND.

The following suggestions apply only to United States cases, and are for the information of United States attorneys and officers of the United States courts generally. The preparation of the papers in strict accordance with the suggestions herein made will save unnecessary labor and delay.

The application for the requisition for the surrender of the fugitive must show—

1. That one of the offenses enumerated in the treaty existing between the United States and the foreign country has been committed within the jurisdiction of the United States.

2. That a warrant of arrest has been issued in this country for the person charged with such offense, but can not be served owing to the fact that he has fled from the jurisdiction of the United States and has sought an asylum or has been found in the foreign country.

Application for requisition for the surrender of the fugitive must be addressed to the Attorney-General.

In the application the United States attorney must furnish—

1. The name in full of the accused and his or her assumed name or names, if any;

2. A physical description of the accused;

3. The place and address in the foreign country where the accused can be found;

4. The date of the indictment (if an indictment has been filed), and the title and term of court at which the indictment was returned;

5. The specific offense charged. If the offense charged is embezzlement, larceny, or the like, the United States attorney should also state the actual amount involved, or describe the property taken, and also state whether the property is of a public or a private character;

6. The date of the commission of the offense and the place where committed; and,

7. The name of the person proposed to be designated by the President as the agent of the United States to receive the accused and convey him to the place of trial in the United States. In selecting such

agent or agents it is wise to recommend some one who is able to identify the accused, in the event identity is not disclosed or is denied at the preliminary examination in the foreign country.

Generally extradition is granted only on such evidence of criminality as, according to the laws of the place where the fugitive charged shall be found, would justify his or her apprehension and commitment for trial if the crime or offense had been committed there.

It is admissible as constituting such evidence to produce a properly certified copy of the indictment found by a grand jury or of an information made before an examining magistrate, accompanied by one or more depositions furnishing the evidence tending to show the truth of the charge made in the indictment or information.

As strong a case as possible should be made out for presentation to the surrendering government—such a case as would justify the commitment of the accused under the laws of this country.

The United States attorney should transmit with the application a copy in duplicate of the following papers:

1. The indictment;
2. The warrant of arrest, with the marshal's return indorsed thereon and,
3. The evidence upon which the charges made in the indictment are based.

These papers, being in most instances the record of the court, must be certified to under seal as being such by the clerk of the court, and the clerk's official identity must be fully established by the certificate of the United States judge under seal.

If the evidence given before the grand jury was not reduced to writing, it is necessary to secure original affidavits or depositions supporting the charge made in the indictment.

These affidavits or depositions should be executed before a judicial officer, preferably a United States judge or a United States commissioner.

The officer before whom the affidavits or depositions are executed should attach to each of them his official signature and seal. All captions should be couched in formal, legal language.

In the event the affidavits or depositions are executed before a United States commissioner, his official identity must be established by the certificate of the United States judge, under seal, to which certificate may be attached the statement of the judge that the commissioner is an officer legally qualified to act in criminal matters arising under the laws of the United States.

**IN CASES WHERE THE ACCUSED IS MERELY CHARGED WITH
THE COMMISSION OF A CRIME.**

In the event the accused has not been indicted, but is merely charged with the commission of a crime, the following papers prepared in duplicate are necessary:

1. A complaint properly signed and sworn to;
2. The warrant of arrest, with the marshal's return indorsed thereon; and,
3. The testimony tending to prove the allegations made in the complaint.

The complaint, setting forth as fully as possible the circumstances of the crime, must be signed and sworn to before a judicial officer, preferably a United States judge or a United States commissioner, by an officer of the Government or by a person qualified to speak.

The data furnished in the complaint should also include full information as to the name of the accused, the specific offense charged, the date of the commission of the offense, and the place where committed.

The depositions or affidavits, in which is furnished the evidence relied upon to prove the charge made in the complaint, should be executed before a judicial officer, preferably a United States judge or United States commissioner. If executed before the latter, his official identity must be established by the certificate under seal of the United States judge, who should also certify that the commissioner is legally qualified to act in criminal matters arising under the laws of the United States.

All the papers should then be forwarded by the United States attorney to the Attorney-General, accompanied by a letter of transmittal or an application, in which is furnished information similar to that hereinbefore suggested for use in cases where indictment has been found.

**IN CASES WHERE THE ACCUSED HAS BEEN TRIED AND
CONVICTED.**

If after trial and conviction in this country the accused has sought an asylum in a foreign country, the application and the necessary papers, having for their object the surrender of the convict to the United States authorities for return to this country, should be prepared in like manner as the papers in cases of indictment only, and in addition an authenticated copy in duplicate of the record should be transmitted with the application, showing that the conviction took place after a regular trial. The date of such conviction and the sentence imposed by the court should also be furnished.

PROVISIONAL DETENTION.

If through fear that the accused may flee from the place where he has taken refuge, his provisional detention is desired pending the

preparation and submission of formal papers upon which request for his surrender will be made, specific information should be sent by the United States attorney to the Attorney-General upon the following essential points:

1. The name in full of the accused and his assumed name or names, if any;
2. A physical description of the accused;
3. The place and address in the foreign country where the accused can be found;
4. The date of the indictment, if an indictment has been filed;
5. The specific offense or offenses charged;
6. The date of the commission of the offense and the place where committed; and,
7. State whether a warrant of arrest has been issued and the reason for nonservice in this country.

In the event the fugitive is arrested and detained in the foreign country the United States attorney will be advised. He must then prepare the papers in duplicate, as suggested in the case of a person accused of or indicted for a crime, and forward them to the Attorney-General, accompanied by the formal letter of transmittal or application.

EXPENSES OF SERVICE OF PROCESS IN EXTRADITION CASES.

The actual and necessary expenses incurred and paid by the agent in the execution of the President's warrant should be stated in an itemized account, supported by proper vouchers, and sworn to. The account should be forwarded to the Attorney-General for transmission to the Secretary of State for audit and payment. The amount claimed by the agent as personal compensation should also be stated in the account.



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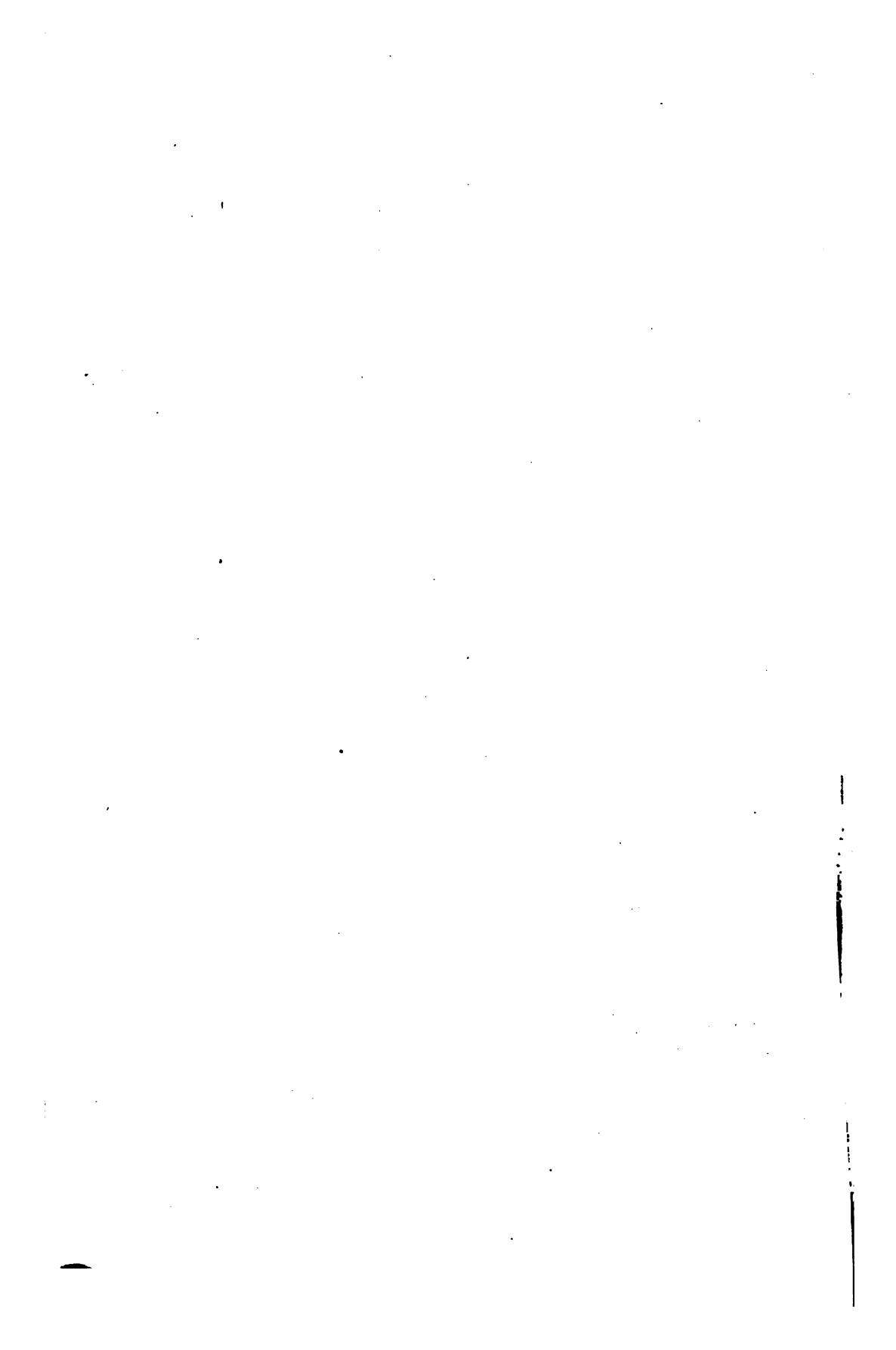
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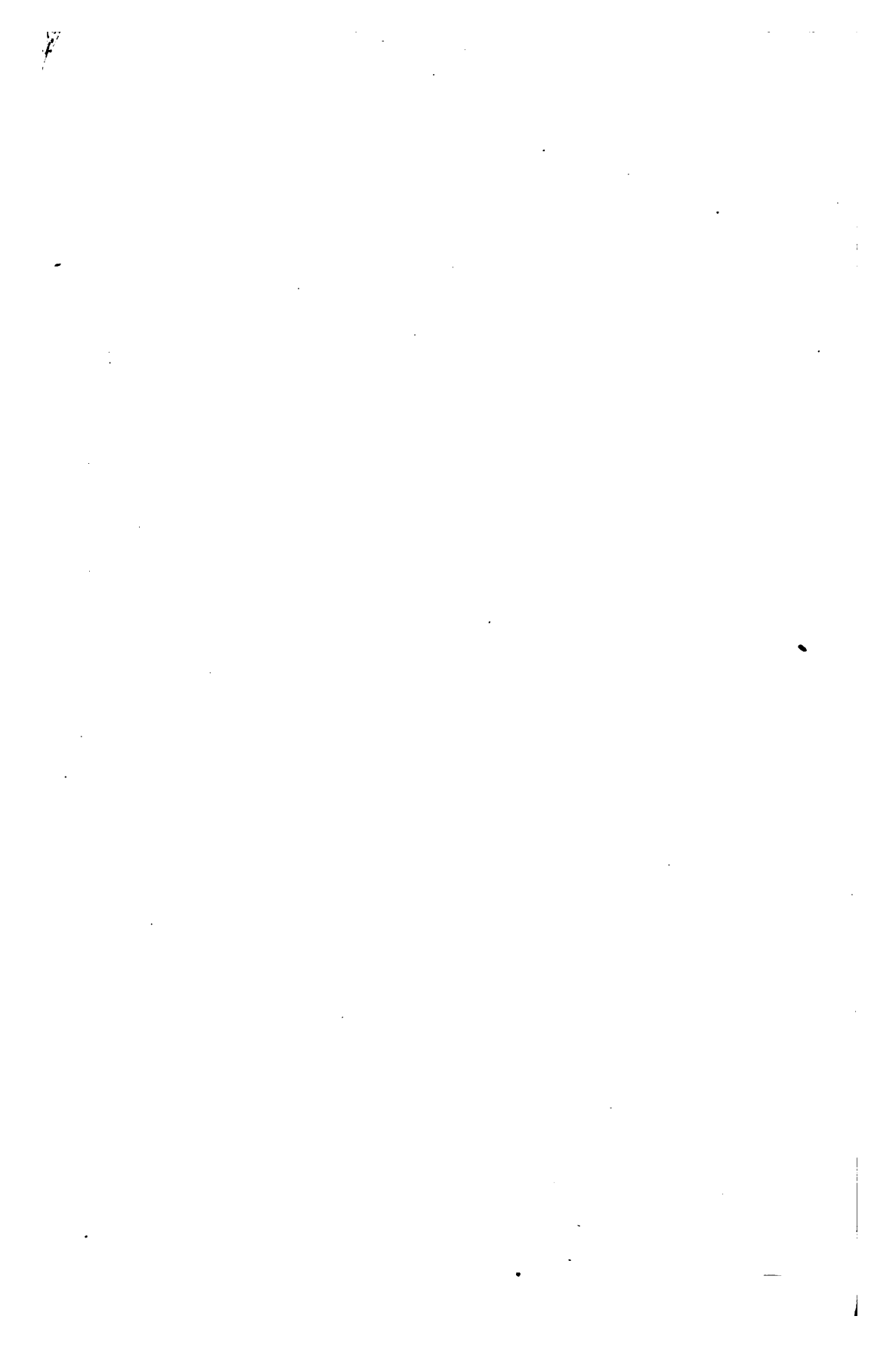
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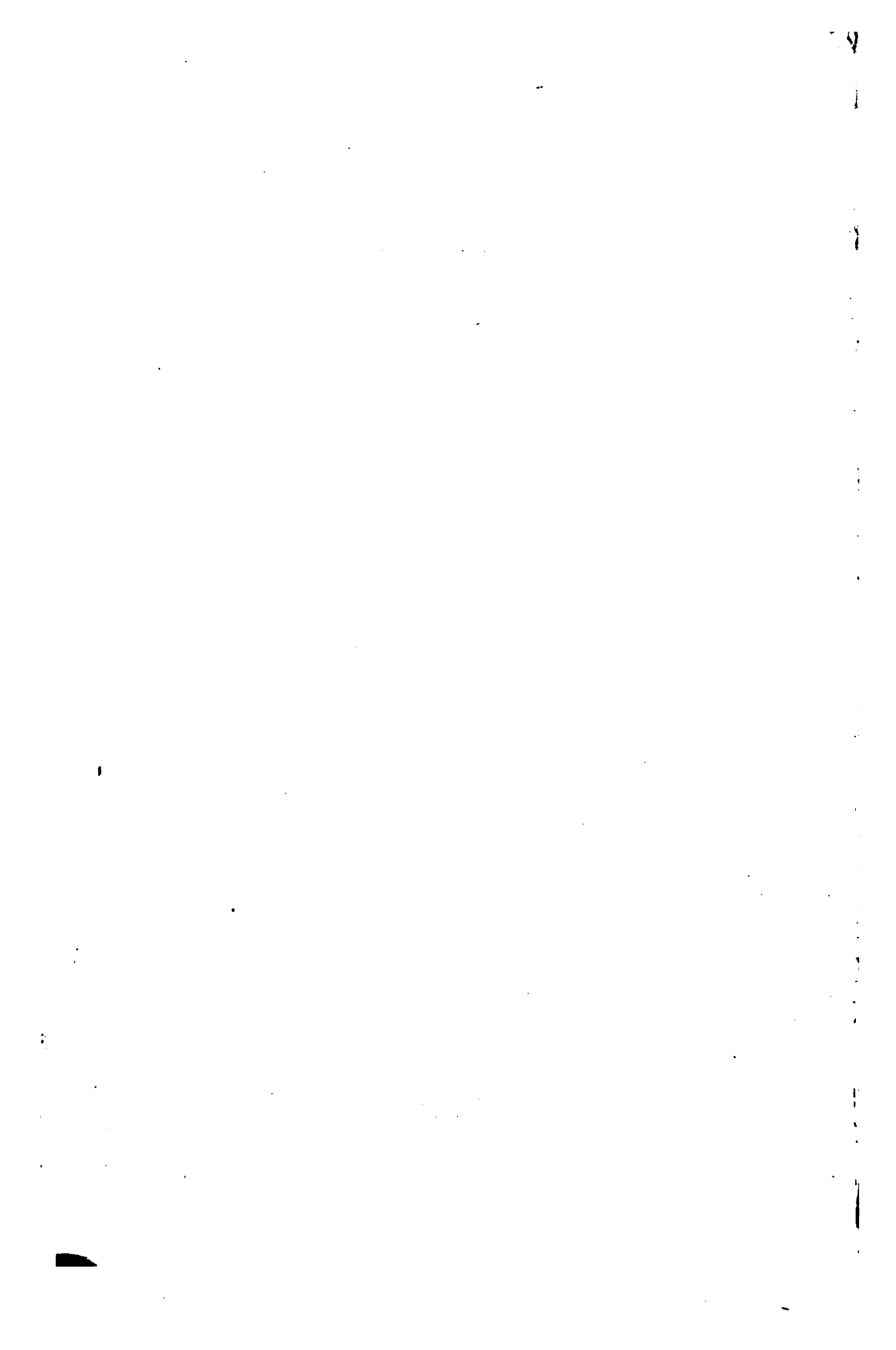
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